Al-Siyāsah al-Sharʿiyyah fī Iṣlāḥ al-Rāʿī wa-l-Raʿiyyah

(Sharīʿah-Based Governance in Reforming the Ruler and the Ruled)

by

Shaykh al-Islām Aḥmad ibn ʿAbd al-Ḥalīm ibn Taymiyyah
(d. 728 AH / 1328 CE)

Edited and verified by
ʿAlī ibn Muḥammad al-ʿImrān

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Translation notes

Governance & Political Theory

- ***al-siyāsah al-sharʿiyyah*** *→ Sharīʿah-based governance*
- ***wilāyah*** *→ authority / governance (context-dependent)*
- ***al-quwwah*** *→ strength / competence (context-dependent)*
- ***al-amānah*** *→ trustworthiness*
- ***amānah (pl. al-amānāt)*** *→ trust / entrusted responsibility*
- ***maṣlaḥah*** *→ public interest*
- ***ʿadl*** *→ justice*
- ***al-amr bi-l-maʿrūf wa-n-nahy ʿan al-munkar*** *→ commanding right and forbidding wrong*
- ***maʾālāt*** *→ outcomes / consequences*
- ***iṣlāḥ*** *→ reform*
- ***fitnah*** *→ civil strife / social turmoil (context-dependent)*
- ***maqāṣid al-sharīʿah*** *→ higher objectives of Islamic law*
- ***ʿurf*** *→ custom*
- ***shūrā*** *→ consultation*
- ***al-rāʿī wa-l-raʿiyyah*** *→ the ruler and the ruled*
- ***al-mīzān*** *→ the Balance (standard of justice)*
- ***al-bayyināt*** *→ clear proofs*

Administrative & Institutional Terms

- ***al-ḥisbah*** → *market supervision*
- ***al-barīd*** → *state postal/courier network*
- ***al-ʿuyūn*** → *scouts / informants*
- ***khuzzān al-amwāl*** → *custodians of public funds / treasurers*
- ***ḥurrās al-ḥuṣūn*** → *fortress guards*
- ***al-dahāqīn*** → *local notables / rural administrators*
- ***dīwān*** → *register / administrative bureau*
- ***dīwān al-ʿaṭā'*** → *stipend register*
- ***dīwān al-jaysh*** → *army register*
- ***bayt al-māl*** → *public treasury*
- ***thughūr*** → *frontier posts / border garrisons*
- ***al-bīkār*** → *state military expeditions / campaigns*

War, Spoils & Revenue

- ***ghanīmah*** → *spoils of war*
- ***al-anfāl*** → *war gains / additional spoils*
- ***khums*** → *one-fifth levy on spoils*
- ***nafl / tanfīl*** → *bonus allotment of spoils*
- ***ghulūl*** → *embezzlement from spoils*

- ***nahbah*** → *unlawful plunder*
- ***fayʾ*** → *state revenue acquired without fighting*
- ***jizyah (jizya)*** → *poll tax on non-Muslim subjects*
- ***ahl al-dhimmah*** → *protected non-Muslim subjects*
- ***kharāj*** → *land tax*
- ***mukūs*** → *unlawful tolls / illegal imposts*
- ***suḥt*** → *illicit gain*

Military & Combat Roles

- ***rājil*** → *infantryman*
- ***fāris*** → *cavalryman*
- ***rabīʾah*** → *lookout / sentry*
- ***radʾ*** → *backer / accomplice (supporting role)*

Zakāh Categories

- ***ṣadaqāt*** → *prescribed alms (zakāh)*
- ***al-ʿāmilūn ʿalayhā*** → *zakāh administrators*
- ***al-muʾallafah qulūbuhum*** → *those whose hearts are to be reconciled*
- ***fī al-riqāb*** → *emancipation of captives*
- ***al-ghārimūn*** → *debtors*
- ***fī sabīl Allāh*** → *in the path of Allah*

- ***ibn al-sabīl*** *→ stranded traveler / wayfarer*

Criminal Law & Punishment

- ***ḥudūd (sing. ḥadd)*** *→ prescribed legal punishments*
- ***taʿzīr*** *→ discretionary punishment*
- ***qiṣāṣ*** *→ lawful retaliation (equal retaliation)*
- ***ḥirābah*** *→ armed robbery / banditry (Qur'anic legal sense)*
- ***muḥāribīn*** *→ perpetrators of ḥirābah*
- ***ḥirābah in towns*** *→ ḥirābah committed within built-up areas*
- ***qaṭṭāʿ al-ṭarīq*** *→ highway robbers / road bandits*
- ***qiṭṭāʿ al-ṭarīq*** *→ highway robbers (variant form)*
- ***ṣalb*** *→ public display of a criminal (after execution)*
- ***muthlah*** *→ mutilation (prohibited except under qiṣāṣ)*
- ***taghrīb*** *→ exile / banishment (typically one year)*
- ***liwāṭ*** *→ male same-sex anal intercourse (fiqh classification)*
- ***muḥṣan*** *→ legally married person (status affecting zinā punishment)*
- ***niṣāb*** *→ minimum legal threshold for ḥadd of theft*
- ***ḥirz*** *→ legally recognized place of secure custody*
- ***ḥasm (cauterization)*** *→ cauterizing to stop bleeding*

Theft, Corruption & Public Order

- ***muntahib*** → *open looter*
- ***mukhtalis*** → *snatcher (immediate grab)*
- ***khā’in*** → *betrayer / embezzler*
- ***makkās*** → *unlawful tax collector / extortionist*
- ***al-burṭīl*** → *bribe*
- ***al-rāshī / al-murtashī / al-rāʾish*** → *briber / bribe-taker / intermediary*
- ***qatl ghīlah*** → *treacherous killing for theft*
- ***al-muʿriḍīn*** → *term used for such treacherous killers*
- ***al-nahīḍah*** → *organized road-cutting band / alliance*
- ***al-ṣāʾil*** → *violent unlawful aggressor*

Social & Legal Status

- ***mustaʾmin*** → *non-Muslim granted safe-conduct*
- ***ʿasīf*** → *hired laborer / wage worker*
- ***murāhiq*** → *near-adult / approaching puberty*
- ***khawārij*** → *Kharijites*

Miscellaneous

- ***aṣlaḥ*** → *most suitable*

- ***siqāyat al-ḥājj*** → *provision of water to pilgrims*
- ***sidānat al-bayt*** → *custodianship of the Kaʿbah*
- ***al-ʿāriyah muʾaddāh*** → *a borrowed item must be returned*
- ***al-zaʿīm ghārim*** → *the guarantor is financially liable*
- ***mijnn*** → *shield*
- ***kathar*** → *palm pith (heart of the palm tree)*
- ***al-mansar*** → *regional term for organized armed bands (Syria/Egypt)*
- ***al-ʿayyārīn*** → *organized urban gangs (historical usage, e.g., Baghdad)*

In the Name of Allah, the Most Merciful, the Most Compassionate

“My success is only by Allah.”

All praise is for Allah—Who clarified for us the markers of religion; revealed to us the Clear Book; and legislated for us rulings by which He distinguished between the lawful and the unlawful. Through it, He determined what secures the welfare of creation; established the foundations of truth; and entrusted to those who assume authority over affairs what is best in sound judgment, best in governance, and most excellent in administration. So to Him belongs praise for what He has decreed and ordained.

And I bear witness that there is no deity worthy of worship except Allah alone, without partner. He sent His messengers with clear proofs, and sent down with them the Book and the Balance so that people may uphold justice—and He sent down iron, wherein is severe might and benefits for people, and so that Allah may make known those who support Him and His messengers unseen. Indeed, Allah is Powerful, Mighty.
(Qurʾān 57:25)

And he sealed them with Muhammad our Prophet ﷺ—whom He sent with guidance and the religion of truth, to make it prevail over all religion. He supported him with the authority of victory; with the comprehensive meaning of knowledge; and with the pen—guiding toward right direction and proof; and with power and the sword—for victory and honor.

To proceed:
This treatise contains foundational principles of **Sharīʿah-based governance** and Prophetic authority—matters without which neither the ruler nor the subjects can do without—principles that Allah has made obligatory as sincere counsel for those who hold authority over affairs.

As the Prophet ﷺ said (in an authentic report):
“Indeed Allah is pleased for you with three things: that you worship Him and associate nothing with Him; that you hold fast, all together, to the rope of Allah and not become divided; and that you sincerely advise those whom Allah has placed in authority over you.”

And this is a treatise founded upon **the Verse of the Commanders/Those in Authority** in the Book of Allah—namely His saying, Exalted is He:

> **“Indeed, Allah commands you to render trusts to whom they are due; and when you judge between people, judge with justice. Excellent is what Allah admonishes you with. Indeed, Allah is All-Hearing, All-Seeing.**
> **O you who believe: obey Allah and obey the Messenger and those in authority among you. Then if you dispute about anything, refer it to Allah and the Messenger, if you believe in Allah and the Last Day. That is better and best in outcome.”**
> **(Qurʾān 4:58–59)**

The scholars said: the first verse was revealed concerning those who hold authority over affairs—(commanding them) that they deliver trusts to their rightful owners, and that when they judge among people they judge with justice. And the second verse was revealed concerning the subjects—whether the armies or others—(commanding them) to obey those in authority in what they command regarding the division (of rights), judgment, campaigns, and the like—**so long as they do not command disobedience to Allah**. If they command disobedience to Allah, then there is no obedience to any created being in disobedience to the Creator.

So if you dispute about anything, return it to the Book of Allah and the Sunnah of His Messenger ﷺ.

And if those in authority do not do that, they are only to be obeyed **in what they command of obedience to Allah**, because that is part of obedience to Allah and His Messenger; and because they have fulfilled their rights as Allah and His Messenger commanded:

> **"And cooperate in righteousness and piety, and do not cooperate in sin and transgression."**
> **(Qurʾān 5:2)**

So when the verse included delivering trusts to their people and judging with justice, it encompassed the totality of just governance and sound authority.

Chapter

As for delivering the trusts, it is of two types:

The first is authority (wilāyah)—and it was the reason for the revelation of the verse. When the Prophet ﷺ conquered Makkah and received the keys of the Kaʿbah from Banū Shaybah, al-ʿAbbās asked him for them so that he might combine for himself the provision of water to the pilgrims and the custodianship of the House. Thereupon Allah revealed His saying:

> **"Indeed, Allah commands you to render trusts to whom they are due."**
> (Qurʾān 4:58)

So the Prophet ﷺ returned the keys of the Kaʿbah to Banū Shaybah.

It therefore becomes obligatory upon the one who holds authority to appoint, for every task among the affairs of the Muslims, the person who is most suitable for that task. For the Prophet ﷺ said:

> **"Whoever is given charge of any affair of the Muslims and appoints a man while he finds someone more suitable for the Muslims than him has betrayed Allah, His Messenger, and the believers."**

And in another narration:

> **“Whoever appoints a man to a post over a contingent while he finds, within that contingent, someone more acceptable than him, has betrayed Allah and His Messenger, and has betrayed the believers.”**

And it is reported with a similar meaning—from the statement of **Ibn ʿUmar**—and it is also reported from him that:

ʿ**Umar ibn al-Khaṭṭāb** (may Allah be pleased with him) said to ʿ**Amr ibn al-ʿĀṣ**:

> **“Whoever is given charge of any affair of the Muslims, then appoints a man due to affection between them or kinship between them, has betrayed Allah, His Messenger, and the Muslims.”**

And this is an obligation upon him. Therefore, it is incumbent upon him to search for those entitled to offices—those who are to be placed over groups—among:

- the deputies of authority,
- judges and the like,
- commanders of the military divisions,
- leaders of armies—major and minor,
- those entrusted with financial offices: ministers, secretaries/scribes, inspectors/overseers,
- those who intercede regarding the land-tax (*kharāj*).

…and charities, and other forms of wealth that belong to the Muslims.

Each one of these officials must appoint those among his personnel who are most suitable for the task entrusted to him. This extends to the imams of prayer, the muezzins, the teachers, the Qurʾān reciters, the judges, the amirs of the pilgrimage, the postal service, and the “eyes” (scouts/informants); to the custodians of wealth and treasuries; the guards of fortresses and frontiers; the blacksmiths; the gatekeepers of forts and cities; the military commanders; the senior and junior officers; the market overseers and heads of guilds and trades; and village chiefs—who are the “dahāqīn” (local notables/administrators).

Thus it is obligatory upon everyone who is entrusted with anything of the Muslims’ affairs—among these and others—to employ, in every position under his hand, the person most suitable for it, insofar as he is able. And he must not advance a man merely because he sought authority, or was foremost in requesting it; rather, the request itself is a cause for withholding it. For it is in the Ṣaḥīḥayn that the Prophet ﷺ was asked for an office, and he said:

“We do not appoint to this matter one who asks for it.”

And he said to ʿAbd al-Raḥmān ibn Samurah: “O ʿAbd al-Raḥmān, do not ask for leadership. For if you are given it without having asked for it, you will be helped in it; but if you are given it because of asking for it, you will be left to it.” (Reported in the Ṣaḥīḥayn.)

And he ﷺ said:

“Whoever seeks the office of judgment and solicits assistance for it will be left to himself; but whoever does not seek it and does not solicit assistance for it, Allah will send down an angel to guide him.”

So if a person turns away from the more entitled, more suitable candidate to someone else due to kinship between them, or loyalty, or friendship, or agreement in homeland, or school, or method, or shared nationality—Arab, Persian, Turkish, Roman, or the like—or due to a bribe he takes from him, whether money or some benefit or due to malice toward the more entitled candidate in his heart, or enmity between them—then he has betrayed Allah, His Messenger, and the believers, and he falls under what Allah forbade in His saying:

“O you who believe, do not betray Allah and the Messenger, and do not betray your trusts knowingly.”
(Qurʾān 8:27)

Then He said:

“And know that your wealth and your children are only a trial, and that with Allah is a great reward.”
(Qurʾān 8:28)

For a man’s love for his child or his clan may incline him to grant them some offices or wealth that they do not deserve—so he betrays his trust. Likewise, he may incline toward increasing his own wealth or preserving it by taking what he does not deserve, or by showing favoritism in certain appointments toward those who assist him—so he betrays Allah, the Messenger, and his trust.

Then the one who delivers the trust—despite opposing his own desire—Allah will preserve for him his family and his wealth after him. But the one driven by greed or desire—Allah may punish him by diminishing his provision: he impoverishes his family and causes his wealth to vanish.

And among the well-known accounts: that one of the caliphs of Banū al-ʿAbbās asked some scholars to relate to him what they knew. He said: I witnessed ʿUmar ibn ʿAbd al-ʿAzīz. It was said to him: O Commander of the Faithful, you have emptied your house of this wealth and left your children poor, with nothing for them—while he was in his final illness. He replied: “Bring them to me.” So they were brought to him—about fourteen in number, none of whom had reached maturity. When he saw them, his eyes overflowed with tears; then he said: “My sons—by Allah, what I left for you is your due. And I was not one to take people’s wealth and

give it to you. Rather, you are one of two kinds of men: either a righteous man—then Allah will take care of the righteous; or a man who is not righteous—then I do not want to leave for him something by which he will seek help in disobeying Allah. Leave me."

He said: I later saw some of his sons mounted upon a hundred horses in the path of Allah—meaning: he gave to those who would raid with them.

The author says: I say: this man was caliph over the Muslims from the farthest East to the farthest West—through the Maghrib, al-Andalus, and elsewhere; and from the island of Cyprus and the frontiers of Syria and the capitals of Tarsus and the like—up to the farthest reaches of Yemen. Yet he took from his wealth for each of his children something slight, it is said: less than twenty dirhams.

He said: And I witnessed some caliphs; their inheritance was divided and each one of their children took eighty thousand dinars. And I have seen some of them burdening the people—seizing from them… And in this chapter there are many accounts and witnessed events in this time, and what is heard from those before it—containing lessons for every person of understanding.

The Sunnah of the Messenger of Allah ﷺ indicates that authority is a trust that must be discharged in matters like what has preceded—such as his statement to Abū Dharr concerning leadership:

> **"Indeed it is a trust, and on the Day of Resurrection it will be disgrace and regret—except for one who takes it with its right and fulfills what is required of him in it."**
> (Reported by Muslim.)

And al-Bukhārī narrated in his Ṣaḥīḥ from Abū Hurayrah that the Prophet ﷺ said:

> **"When the trust is lost, then await the Hour."**
> It was said: "O Messenger of Allah, how is it lost?"
> He said: **"When authority is entrusted to those who are not qualified for it, then await the Hour."**

The Muslims have agreed upon the meaning of this: that the guardian of an orphan, the supervisor of an endowment, and an agent entrusted with another's wealth must act with what is most suitable—doing what is best—just as Allah said:

> **"And do not approach the property of the orphan except in the way that is best."**
> (Qurʾān 17:34)

And He did not say "good," but rather: "best."

This is because the governor is a shepherd over the people, like a shepherd over his flock, as the Prophet ﷺ said:

> **“Each of you is a shepherd, and each of you is responsible for his flock. The imam who is over the people is a shepherd and is responsible for his flock; the woman is a shepherd in her husband’s household and is responsible for her flock; the child is a shepherd over his father’s property and is responsible for his flock; and the servant is a shepherd over his master’s property and is responsible for his flock. Indeed, each of you is a shepherd, and each of you is responsible for his flock.”**

This is reported in the two Ṣaḥīḥs.

And he ﷺ said:

> **“There is no shepherd whom Allah places in charge of a flock, who then dies while deceiving them, except that Allah forbids him the fragrance of Paradise.”**

This is reported by Muslim.

Abū Muslim al-Khawlānī once entered upon Muʿāwiyah ibn Abī Sufyān and said: “Peace be upon you, O hired worker.”
They said to him: “Say: Peace be upon you, O Commander.”
He replied: “Peace be upon you, O hired worker.”
They said: “Say: O Commander.”
He said: “Peace be upon you, O hired worker.”

So Muʿāwiyah said: “Leave Abū Muslim, for he knows best what he is saying.”

Abū Muslim then said: “You are only a hired worker whom the Lord of these sheep has hired to tend them. If you care for those afflicted with scabies, treat their sick, restrain the strong among them for the sake of the weak, and fulfill what is entrusted to you, then your Master will give you your wage. But if you do not care for those afflicted with scabies, do not treat their sick, and do not restrain the strong among them for the sake of the weak, then your Master will punish you.”

This meaning is evident by sound consideration: creation are the servants of Allah, and rulers are Allah’s deputies over His servants. They are also the representatives of the people over their own persons, like one partner with another. Thus, in them is the meaning of **authority** and **agency**.

Then, the guardian and the agent—whenever he appoints, in his affairs, a man, while leaving one who is more suitable for trade or property, or if he sells a commodity at a certain price while he finds someone who would buy it for a better price than that, then he has betrayed his principal—especially if there is between him and the one he favored affection or kinship. For the

principal will resent him, blame him, and see that he has betrayed him and shown favoritism to his relative or his friend.

Chapter

When this is known, then he must not appoint except the most suitable of those available. It may be that among those present there is no one fully suitable for that authority, so he chooses the best, then the next best, for every position according to what it requires. If he does that after complete effort and undertakes the authority with its due right, then he has discharged the trust, fulfilled the obligation in this matter, and becomes, in such cases, among the leaders of justice and the equitable ones before Allah.

And if some matters fall short due to causes beyond his control, when no other course is possible, then Allah, Exalted is He, says:

> **“So fear Allah as much as you are able.”**
> (Qurʾān 64:16)

And He, Exalted is He, says:

> **“Allah does not burden a soul except according to its capacity.”**
> (Qurʾān 2:286)

And He, Glorified is He, says regarding jihād:

> **“Fight in the path of Allah; you are not held responsible except for yourself, and urge the believers.”**
> (Qurʾān 4:84)

And He, Exalted is He, says:

> **“O you who believe, upon you is responsibility for yourselves; those who go astray will not harm you when you have been guided.”**
> (Qurʾān 5:105)

So whoever fulfills the obligatory duty to the extent of his ability has indeed been rightly guided. And the Prophet ﷺ said:

> **“When I command you with something , then do of it what you are able.”**

“When I command you with something

This is reported in the two Ṣaḥīḥs. But if failure occurs without necessity, or out of betrayal, then one is punished for that.

One must know who is most suitable for each position, for **authority / governance (wilāyah)** has two pillars: **strength / competence (al-quwwah)** and **trustworthiness (al-amānah)**. Allah تعالى says:

> **“Indeed, the best one you can hire is the strong and the trustworthy.”**
> (Qurʾān 28:26)

And the ruler of Egypt said to Joseph, peace be upon him:

> **“Indeed, today you are established and trustworthy in our sight.”**
> (Qurʾān 12:54)

And Allah تعالى said regarding Gabriel, peace be upon him:

> **“Indeed, it is the word of a noble messenger, possessed of strength, secure with the Owner of the Throne; obeyed there, and trustworthy.”**
> (Qurʾān 81:19–21)

Strength in every office is according to what that office requires. Thus, strength in military command returns to courage of heart, experience in warfare, and the ability to employ strategy therein—for war is deception—and to capability in the various forms of combat: shooting, thrusting, striking, riding, advancing and retreating, and the like. Allah تعالى says:

> **“Prepare against them whatever you are able of power and of tethered horses.”**
> (Qurʾān 8:60)

And the Prophet ﷺ said:

> **“Shoot and ride. That you shoot is more beloved to me than that you ride. And whoever learns archery and then abandons it is not of us.”**

Strength in judging between people returns to knowledge of justice as indicated by the Book and the Sunnah, and to the ability to implement judgments. Trustworthiness returns to fear of Allah تعالى, not fearing people, and not selling His verses for a small price. These are the three qualities that Allah took upon everyone who judges among people in His saying:

> **“So do not fear the people, but fear Me; and do not sell My verses for a small price. And whoever does not judge by what Allah has revealed—then those are the disbelievers.”**
> (Qurʾān 5:44)

For this reason, the Prophet ﷺ said:

> **“Judges are three: two are in the Fire, and one is in Paradise. A man who knows the truth and judges contrary to it is in the Fire; a man who judges among people in ignorance is in the Fire; and a man who knows the truth and judges by it is in Paradise.”**

The term “judge” applies to everyone who judges between two parties—whether he is called caliph, sultan, deputy, or governor; whether he is appointed to judge by the Sacred Law or deputized by one who does so—even one who judges between children when they dispute over lines. This is how the Companions of the Messenger of Allah ﷺ expressed it, and it is evident.

Chapter

The combination of strength and trustworthiness in people is rare. For this reason, ʿUmar ibn al-Khaṭṭāb رضي الله عنه used to say: “O Allah, to You I complain of the vigor of the wicked and the incapacity of the trustworthy.”

What is obligatory in every office is to appoint what is most suitable for that office. If two men are available—one greater in trustworthiness and the other greater in strength—then precedence is given to the one who is more beneficial for that particular authority and less harmful in it. Thus, in military command, the strong and courageous man is preferred—even if he has moral failings—over the weak and incapable man, even if he is trustworthy.

Imām Aḥmad was asked about two men who might be commanders in battle: one strong but morally corrupt, and the other righteous but weak. With which should one campaign? He replied: As for the corrupt but strong man, his strength benefits the Muslims and his corruption is against himself; and as for the righteous but weak man, his righteousness is for himself while his weakness is against the Muslims. One campaigns with the strong, corrupt man.

The Prophet ﷺ said:

> **“Indeed, Allah supports this religion through a corrupt man.”**

It is also related: “through people who have no share.” If he is not corrupt, then he is even more deserving of military command than one who is more virtuous than him in religion when the latter cannot fulfill the role.

For this reason, the Prophet ﷺ used to appoint Khālid ibn al-Walīd over war after he embraced Islam, and he said:

> **“Indeed, Khālid is a sword that Allah has unsheathed against the polytheists.”**

Yet at times Khālid did things the Prophet ﷺ disapproved of—until on one occasion he raised his hands to the sky and said:

> **“O Allah, I declare myself free before You of what Khālid has done.”**

That was when he sent him to Jadhīmah, and Khālid killed them and took their wealth on the basis of a kind of mistaken pretext; that was not permissible. Some of the Companions who were with him objected, until the Prophet ﷺ paid their blood-money and guaranteed their property. Despite this, he continued to place him in military command, because he was more suitable for that field than others, and what he did, he did based on a form of interpretation.

Abū Dharr رضي الله عنه was more suitable than him in trustworthiness and truthfulness, yet the Prophet ﷺ said to him:

> **“O Abū Dharr, I see that you are weak, and I love for you what I love for myself: do not take authority over two people, and do not take charge of the wealth of an orphan.”**

He forbade Abū Dharr from leadership and authority because he saw him as weak—though it is also narrated: “Neither the green sky has shaded, nor the dusty earth carried, anyone more truthful in speech than Abū Dharr.”

The Prophet ﷺ also appointed ʿAmr ibn al-ʿĀṣ once as commander in the expedition of Dhāt al-Salāsil—seeking to win over his relatives to whom he was being sent—over others who were better than him. And he appointed Usāmah ibn Zayd in order to pursue the blood-revenge for his father. Thus he would appoint a man for a preponderant public interest (*maṣlaḥah*), even though among the troops there might be someone better than the commander in knowledge and faith.

Likewise, Abū Bakr—the successor of the Messenger of Allah ﷺ—continued to appoint Khālid in fighting the apostates and in the conquests of Iraq and Syria. Some lapses occurred from Khālid for which he had an interpretation; it was mentioned to Abū Bakr that there may also have been some personal inclination in them, yet he did not remove him on account of that. Rather, he reproached him, because the public interest in his remaining outweighed the harm, and because others could not take his place.

For when the supreme authority’s temperament inclines toward severity, it is fitting that the temperament of his deputy inclines toward gentleness; and if his temperament inclines toward gentleness, it is fitting that the temperament of his deputy inclines toward severity—so that the affair remains balanced.

For this reason Abū Bakr used to prefer deputizing Khālid, whereas ʿUmar ibn al-Khaṭṭāb used to prefer removing Khālid and appointing Abū ʿUbaydah ibn al-Jarrāḥ; for Khālid was severe like ʿUmar, and Abū ʿUbaydah was gentle like Abū Bakr. Thus, what was most suitable for each of them was to appoint the one he appointed, so that the overall administration would be balanced

and thereby conform to the balanced governance of the Messenger of Allah ﷺ. The Prophet ﷺ said:

> **"I am the Prophet of mercy; I am the Prophet of battle."**

And his community is a middle nation. Allah تعالى says of them:

> **"…humble toward the believers, mighty against the disbelievers."**
> (Qurʾān 5:54)

And Allah تعالى says:

> **"…merciful among themselves."**
> (Qurʾān 48:29)

Thus, when Abū Bakr and ʿUmar assumed authority, each became complete in governance, and what people had ascribed to each of them in life under the Prophet ﷺ—Abū Bakr's gentleness and ʿUmar's severity—was moderated into balance. The Prophet ﷺ said of them:

> **"Follow the two who come after me: Abū Bakr and ʿUmar."**

And from Abū Bakr's conduct appeared such courage of heart in fighting the apostates and others that he surpassed ʿUmar and the rest of the Companions, may Allah be pleased with them all.

When an office's need for trustworthiness is greater, then the trustworthy person is given precedence—such as in safeguarding wealth and the like. As for collecting wealth and safeguarding it, both strength and trustworthiness are necessary: one appoints a strong collector who extracts funds by his strength, and a trustworthy scribe who safeguards them by his competence and trustworthiness. Likewise, in military command, if the commander is ordered to consult people of knowledge and religion, then the two interests are combined. And so it is in other offices: if the public interest cannot be completed by a single man, then it is achieved by combining a number of people. One must prefer what is most suitable, or multiply deputies when sufficiency cannot be achieved by one complete individual.

In judicial authority, the most knowledgeable, most God-fearing, and most capable is preferred. If one is more knowledgeable and the other more scrupulous, then—where judgment is clear yet one fears desire—preference is given to the more scrupulous; and where judgment is subtle and one fears confusion, preference is given to the more knowledgeable. It is related from the Prophet ﷺ that he said:

> **"Indeed Allah loves discerning insight when doubts arise, and He loves a complete intellect when desires present themselves."**

If the judge is fully supported—by the commander or by the general public—then they may be preferred over the one who is merely more capable. And the more capable is given precedence

when judging requires strength and support for the judge more than it requires additional knowledge and scrupulousness.

For the judge in the fullest sense must be knowledgeable, just, and capable; and likewise every governor over the Muslims. Whenever any one of these qualities is deficient, deficiency appears on account of it. Effectiveness is achieved either by compulsion and awe, or by beneficence and attraction; and in reality, both are needed.

Some scholars were asked: if no one can be found to take up the judiciary except either a learned immoral man, or a pious ignorant man—whom should one prefer? He replied: if the need for piety is greater because corruption is prevalent, prefer the pious man; but if the need for knowledge is greater because rulings are obscure, prefer the learned man.

Most scholars prefer piety, for it is agreed that the one entrusted must be upright—fit to bear testimony. They differed regarding the requirement of learning: must he be a mujtahid, or may he be a muqallid, or is it obligatory to appoint the best available as circumstances permit? This has three views, and detailed discussion is elsewhere.

Even though appointing one not fully qualified may be permissible under necessity when he is the best available, it remains obligatory to strive to reform circumstances so that what is needed for offices and commands becomes complete among the people—just as an insolvent person must strive to repay his debt, even though at the moment he is not required except what he can do; and just as preparation for jihād—by preparing strength and tethered horses—remains obligatory even when jihād is suspended due to incapacity. For what is necessary to fulfill an obligation is itself obligatory—unlike the capability required for ḥajj and the like, for that capability does not need to be acquired because the obligation there does not arise until it exists.

Chapter

What matters in this chapter is knowing who is most suitable. That is only completed by knowing the objective of authority, and knowing the path to that objective. When objectives and means are known, the matter is complete. Thus, when most kings came to prioritize worldly aims over religious aims, they preferred in their appointments those who assisted them in those aims; and the one who seeks personal leadership prefers to appoint those who uphold his personal dominance.

It was the Sunnah that the one who leads the Muslims in Friday and congregational prayer and delivers the sermon was the commander of war—the deputy of the sovereign over the troops. For this reason, when the Prophet ﷺ appointed Abū Bakr to lead the prayer, the Muslims appointed him afterward in military command and other matters.

When the Prophet ﷺ sent an amir on a campaign, he would be the one to lead his companions in prayer. Likewise, when he appointed a man as deputy over a town—such as

ʿAttāb ibn Asīd over Mecca, ʿUthmān ibn Abī al-ʿĀṣ over al-Ṭāʾif, and ʿAlī, Muʿādh, and Abū Mūsā over Yemen, and also ʿAmr ibn Ḥazm over Najrān—his deputy was the one who led them in prayer, enforced the prescribed limits among them, and carried out other acts belonging to the commander.

So too were his successors after him, and those after them among the Umayyad rulers and some of the Abbasids. That is because the most important matters of religion are prayer and jihād; hence most hadiths from the Prophet ﷺ concern prayer and jihād. When he visited the sick he would say:

> **"O Allah, heal Your servant: he will establish prayer for You and wound an enemy for You."**

When the Prophet ﷺ sent Muʿādh to Yemen, he said: "O Muʿādh, the most important of your matters with me is prayer."

Likewise, ʿUmar ibn al-Khaṭṭāb رضي الله عنه used to write to his governors: "The most important of your affairs with me is prayer. Whoever preserves it and guards it preserves his religion; and whoever neglects it is even more neglectful of what is beyond it."

That is because the Prophet ﷺ said: "Prayer is the pillar of religion." When the person entrusted establishes the pillar of religion, prayer forbids indecency and wrongdoing, and it helps people with what is beyond it of obedience. Allah تعالى says:

> **"Seek help through patience and prayer; and indeed it is difficult except for the humble."**
> (Qurʾān 2:45)

And He says:

> **"O you who believe, seek help through patience and prayer; indeed Allah is with the patient."**
> (Qurʾān 2:153)

And He says:

> **"Command your family to pray, and be steadfast in it. We do not ask you for provision; We provide for you."**
> (Qurʾān 20:132)

And He says:

> **"I did not create jinn and mankind except that they worship Me. I do not want from them any provision, nor do I want them to feed Me. Indeed Allah is the Provider, Possessor of strength, the Firm."**
> (Qurʾān 51:56–58)

The obligatory aim of governance is: rectifying the religion of the people—for if they lose it they incur manifest loss, and whatever worldly comfort they enjoy will not benefit them—and rectifying what religion cannot be established without of their worldly affairs. That is of two kinds: distributing wealth among those entitled to it, and punishing aggressors.

Whoever does not transgress—his religion and his worldly life are set right. For this reason ʿUmar ibn al-Khaṭṭāb رضي الله عنه used to say: "I only send my governors to you to teach you the Book of your Lord and the Sunnah of your Prophet, and to distribute among you your share."

When the subjects changed in one respect, and the shepherds changed in another, affairs became contradictory. But when the shepherd exerts full effort to rectify their religion and their worldly life according to what is possible, he is among the best people of his time. Indeed, he is among the best of those who strive in the path of Allah تعالى. It has been narrated: **"One day under a just ruler is better than sixty years of worship."**

In the *Musnad* of Imām Aḥmad, it is reported from the Prophet ﷺ that he said: **"The most beloved of creation to Allah is a just ruler, and the most detested of creation to Allah is an unjust ruler."**

And in the two Ṣaḥīḥs, from Abū Hurayrah (may Allah be pleased with him), the Messenger of Allah ﷺ said:

"Seven will be shaded by Allah in His shade on the Day when there is no shade except His shade: a just ruler; a young man who grew up in the worship of Allah; a man whose heart is attached to the mosque—whenever he leaves it until he returns to it; two men who love one another for the sake of Allah, who meet upon that and part upon that; a man who remembers Allah in solitude and his eyes overflow; a man whom a woman of status and beauty invites, and he says: 'I fear Allah, Lord of the worlds'; and a man who gives charity and conceals it so that his left hand does not know what his right hand spends."

And in *Ṣaḥīḥ Muslim*, from ʿIyāḍ ibn Ḥimār (may Allah be pleased with him), the Messenger of Allah ﷺ said:

"The people of Paradise are three: a possessor of authority who is equitable; a man who is merciful, tender-hearted toward every relative and every Muslim; and a wealthy man who is chaste and gives charity."

And it is narrated in the Sunan from him ﷺ: **"The one who undertakes the collection of alms with due right is like the one who strives in the path of Allah."**

Allah سبحانه وتعالى, when commanding jihād, said:

> **"Fight them until there is no fitnah (civil strife / social turmoil) and the religion is entirely for Allah."**
> (Qurʾān 8:39)

And it was said to the Prophet ﷺ: “O Messenger of Allah, a man fights out of courage; another fights out of tribal zeal; and another fights to be seen— which of these is in the path of Allah?” He replied:

“Whoever fights so that the word of Allah is the highest, he is in the path of Allah.”

The intent, then, is that the religion be wholly for Allah, and that the word of Allah be the highest. The “word of Allah” is a comprehensive expression for His words contained in His Book. Thus Allah تعالى said:

> **“We certainly sent Our messengers with clear proofs, and We sent down with them the Book and the balance so that people may uphold justice.”**
> (Qurʾān 57:25)

So the aim of sending messengers and revealing scriptures is that people uphold justice in the rights of Allah and the rights of His creation. Then He said:

> **“And We sent down iron, in which is severe might and benefits for people—so that Allah may know who supports Him and His messengers unseen.”**

Whoever turns away from the Book is restrained by the sword; hence, the religion is upheld by the muṣḥaf and the sword. It has been narrated from Jābir ibn ʿAbd Allāh (may Allah be pleased with them) that he said: “The Messenger of Allah ﷺ commanded us to strike with this”—meaning the sword—“those who deviate from this”—meaning the muṣḥaf.

If this is the objective, then one seeks it through the nearest means, then the next nearest. One considers two men and asks: which of them is closer to achieving the objective? He is appointed. Thus, if the role is—for example—only leading the prayer, then precedence is given according to what the Prophet ﷺ laid down when he said:

“Let the people be led in prayer by the one who recites the Book of Allah best; if they are equal in recitation, then by the one most knowledgeable of the Sunnah; if they are equal in the Sunnah, then by the one who emigrated earlier; if they are equal in emigration, then by the elder. And a man should not lead another in prayer within his authority, nor sit in his place of honor except with his permission.”

If two men are equal, or the more suitable of them is unclear, then one draws lots between them—just as Saʿd ibn Abī Waqqāṣ drew lots among people on the day of al-Qādisiyyah when they disputed over the call to prayer—following the Prophet’s ﷺ statement:

“If people knew what is in the call (to prayer) and the first row, and found no way to attain it except by drawing lots, they would surely draw lots for it.”

Thus, if precedence is given by Allah's command when it becomes clear, or by a procedure that He has legislated when the matter is unclear—namely, drawing lots—then the one entrusted has delivered the trusts of authority / governance (wilāyah) to those entitled to them.

Chapter

Strength in offices comprises a person's strength over himself and his strength over others. His strength over himself is through forbearance and patience, as it is narrated from the Prophet ﷺ in the authentic ḥadīth:

"The strong man is not the one who overcomes others in wrestling; rather, the strong man is the one who controls himself when angry."

This is the "master" about whom Allah تعالى said:

> **"…a master and chaste…"**
> (Qurʾān 3:39)

And the Prophet ﷺ said regarding al-Ḥasan:

"Indeed, this son of mine is a master, and Allah will bring reconciliation through him between two great groups of Muslims."

So the Prophet ﷺ clarified that the truly strong and powerful man is not the one who is physically strong and repeatedly overpowers people; rather, he is the one strong within himself—who controls himself and overcomes it at the time of anger.

As for strength over others: it lies in courage within himself, and in experience, and in the other means of strength—men and wealth— as indicated by Allah's saying:

> **"Prepare against them whatever you are able of strength…"**
> (Qurʾān 8:60)

And Muslim narrates in his Ṣaḥīḥ from Abū Hurayrah (may Allah be pleased with him) that the Messenger of Allah ﷺ said:

"The strong believer is better and more beloved to Allah than the weak believer, though there is good in each. Be eager for what benefits you; seek help from Allah and do not be incapable. If something befalls you, do not say: 'If only I had done such-and-such, it would have been such-and-such.' Rather say: 'Allah decreed, and what He willed He did,' for 'if only' opens the work of Satan."

By the first kind of strength, a person becomes among the emigrants who abandoned what Allah forbade, and among the strivers who strive against their own selves for Allah—striving against the inner enemy of Satan and desire. By the second kind of strength, he becomes among the emigrant strivers in the path of Allah: those who strive against His enemies and support Allah and His Messenger—and by them the religion stands.

Often a man possesses one of these two strengths without the other, and his affairs are accordingly deficient. For this reason, the scholars advised those who assume the judiciary and other offices: that he should be strong without harshness, gentle without weakness—like the palm of the hand, in which strength and gentleness are combined: not rigid in its strength like bone or stone, nor weak in its gentleness like blood or water.

For if a man is strong over people but not strong over himself—so that he is not forbearing, noble, gentle toward people, and patient with their harm—then he will have within himself anxiety and constriction that makes him oppressive to them and to himself, until his "bravery" may destroy him. And if a man is strong over himself—opposing his own desire—but lacks strength over people and the authority by which he can carry them upon the truth, then they will depart from the truth; they will not perform obligations and will not leave prohibitions.

People may share praiseworthy traits, yet some are more complete than others in certain traits. The Rightly Guided Caliphs were each described by virtues through which they surpassed creation. ʿUthmān and ʿAlī (may Allah be pleased with them) differed in degree regarding forbearance and courage; regarding renunciation of wealth and renunciation of leadership; regarding striving with the self and striving with wealth; regarding knowledge of the Book and knowledge of the Sunnah. The superiority of one appears in one respect, and the superiority of the other appears in another—just as the superiority of Abū Bakr and ʿUmar over them is apparent in the generality of these matters; and just as their superiority—may Allah be pleased with them—over others is apparent in the generality of these matters; and just as the guidance of Muḥammad ﷺ surpasses the guidance of Moses and Jesus—peace be upon them all.

These four are the ones whom the Muslims in general—and scholars and rulers in particular—must consider in their conduct and take as models after the Prophet ﷺ. For it has been established in the Sunan from al-ʿIrbāḍ ibn Sāriyah that he said: The Messenger of Allah ﷺ delivered to us an admonition from which eyes shed tears and hearts trembled. A man said: "O Messenger of Allah, this is as though it were a farewell sermon—so what do you enjoin upon us?" He said:

"I enjoin upon you fear of Allah تعالى, and adherence to hearing and obeying (those in authority). For whoever among you lives after me will see much اختلاف (difference and divergence). So adhere to my Sunnah and the Sunnah of the Rightly Guided Caliphs after me. Hold fast to it and bite onto it with your molars. Beware newly invented matters, for every innovation is misguidance."

It is also established in the Sunan from Safīnah, the freedman of the Prophet ﷺ, that the Prophet ﷺ said:

“The caliphate after me will be thirty years; then it will become kingship.”

And ʿUmar ibn ʿAbd al-ʿAzīz (may Allah be pleased with him)—whom the Muslims bore witness was a rightly guided caliph—used to say:

“The Messenger of Allah ﷺ and those vested with authority after him established practices: taking them is affirmation of the Book of Allah, completion of obedience to Allah, and strength upon the religion of Allah. No one has the right to change them, replace them, or adopt the opinion of anyone who opposes them. Whoever is guided by them is guided; whoever seeks help through them is aided; and whoever opposes them and follows other than the path of the believers—Allah will turn him to what he has taken, and will make him enter Hell, and it is an evil destination.”

And these three foundations—the Book of Allah, the Sunnah of His Messenger, and the path of His believing servants—are the religion of Allah: His straight path and His firm rope. It is the best of religions; its adherents are the most honored of nations before Allah; it is the best community brought forth for humankind. It obligates the people of the earth to enter into it in knowledge and practice—so that nothing enters it that is outside of it, and nothing leaves it that is within it.

We ask Allah the Mighty to guide us to it entirely, to make us steadfast upon it inwardly and outwardly, along with the rest of our brothers. Indeed, He is Generous and Noble.

Chapter

The second category of trusts is wealth, as Allah—Glorified and Exalted—is—said regarding debts:

> **“If one of you entrusts another, then let the one who is entrusted deliver his trust, and let him fear Allah, his Lord.”**
> (Qurʾān 2:283)

This category includes tangible property and debts, private and public: such as returning deposits; safeguarding the wealth of a partner, an agent, and a muḍārib; and the wealth under one’s guardianship belonging to an orphan, the beneficiaries of an endowment (waqf), and the like. It likewise includes fulfilling debts: the prices of sold goods, repayment of loans, bridal-dowers owed to women, wages for benefits and services, and the like.

Allah—Glorified and Exalted—is—said:

> **“Indeed man was created anxious: when evil touches him, impatient; and when good touches him, withholding—except those who pray …”**
> (Qurʾān 70:19–22)

And He تعالى said:

> **“We have revealed to you the Book in truth so that you may judge between the people by what Allah has shown you; and do not be an advocate for the treacherous.”**
> (Qurʾān 4:105)

Meaning: do not argue on their behalf.

And the Prophet ﷺ said:

> **“Render the trust to the one who entrusted you, and do not betray the one who betrays you.”**

And he ﷺ said:

> **“The believer is the one whom the Muslims trust regarding their lives and wealth; the Muslim is the one from whose tongue and hand the Muslims are safe; the emigrant is the one who abandons what Allah has forbidden; and the striver is the one who strives against his own self for the sake of Allah.”**

And he said:

> **“Whoever takes people’s wealth intending to repay it, Allah will repay it on his behalf; but whoever takes it intending to destroy it, Allah will destroy him.”**

It is narrated by al-Bukhārī.

Since Allah تعالى has obligated the fulfillment of trusts received rightfully, this is a reminder that fulfilling what was taken by anger, theft, betrayal, and the like—of wrongful seizures and injustices—is even more obligatory; likewise, returning borrowed property.

The Prophet ﷺ delivered a sermon in the Farewell Pilgrimage, and in his sermon he said:

> “What is borrowed must be returned; what is granted as a loan-gift must be repaid; debts must be settled; and the guarantor is liable. Allah has given every rightful claimant his due; therefore, there is no bequest for an heir.”

This category includes both rulers and subjects: each of them must deliver to the other what is due. Thus it is incumbent upon everyone vested with authority and their deputies responsible for disbursements to give every rightful claimant his due; and upon collectors of wealth—such as those in the administrative registers—to deliver to every rightful claimant what must be delivered to him; and likewise upon the subjects with respect to the rights binding upon them.

It is not for the subjects to demand from those responsible for public funds what they do not deserve, thereby becoming like those about whom Allah—Glorified and Exalted—is—said:

> **“And among them are those who criticize you concerning charity; if they are given from it, they are pleased, but if they are not given from it, then they are enraged …”**
> **(Qurʾān 9:58)**

And He تعالى said:

> **“Charity is only for the poor and the needy, and those employed to administer it, and those whose hearts are to be reconciled, and for freeing slaves, and for those in debt, and in the path of Allah, and for the traveler—an obligation from Allah. And Allah is All-Knowing, All-Wise.”**
> (Qurʾān 9:60)

Nor is it for them to withhold from the authority what must be paid of rights—even if he is unjust—just as the Prophet ﷺ commanded when he mentioned the tyranny of rulers. He said:

> **“Give them what is due from you, for Allah will question them concerning what He entrusted to them.”**

In the two Ṣaḥīḥs, from Abū Hurayrah (may Allah be pleased with him), from the Prophet ﷺ, he said:

> **“The prophets used to govern (sūsā) the Children of Israel: whenever a prophet perished, another prophet succeeded him. There is no prophet after me, but there will be caliphs, and they will be many.”**
> **They said: “What do you command us?”**
> **He said: “Fulfill the pledge of allegiance to the first, then the next; and give them their rights, for Allah will question them concerning what He entrusted to them.”**

And in the two Ṣaḥīḥs, from Ibn Masʿūd (may Allah be pleased with him), he said: The Messenger of Allah ﷺ said to us:

> **“You will see after me favoritism and matters you will disapprove of.”**
> **They said: “What do you command us, O Messenger of Allah?”**

It is not for those responsible for public funds to distribute them according to their personal whims, as an owner distributes his private property. They are only trustees, deputies, and agents—not owners. The Messenger of Allah ﷺ said:

> **“By Allah, I do not give to anyone nor withhold from anyone; rather, I am only a distributor: I place it where I am commanded.”**

So this Messenger of the Lord of the worlds has informed that giving and withholding are not by his own desire and choice—as is the case for an owner to whom disposal of his wealth is permitted, and as kings act when they give to whom they wish and withhold from whom they

wish. Rather, he is a servant of Allah distributing wealth by His command, placing it where Allah—Glorified and Exalted—is—commanded.

Likewise, a man said to ʿUmar ibn al-Khaṭṭāb (may Allah be pleased with him): “O Commander of the Faithful, if only you would be more generous with yourself in spending from the wealth of Allah.” ʿUmar replied: “Do you know what I am like, and what these people are like? We are like a group traveling: they gathered their money and entrusted it to one man to spend on them. Would it be lawful for that man to take for himself, apart from them, from their wealth?”

Once a great sum from the khums was brought to ʿUmar ibn al-Khaṭṭāb (may Allah be pleased with him), and he said: “A people who have delivered the trust in this matter to its trustees …” One of those present said to him: “You fulfilled the trust toward Allah تعالى, so they fulfilled the trust toward you. If you were to graze freely (i.e., take for yourself), they would graze freely.”

And one should know that the ruler is like the market: whatever is made to circulate within it will be brought into it—so said ʿUmar ibn ʿAbd al-ʿAzīz. If truthfulness, righteousness, justice, and trustworthiness circulate within it, those will be brought into it; and if lying, immorality, tyranny, and betrayal circulate within it, those will be brought into it. What is required of the ruler is: to take wealth from its lawful sources and place it in its rightful due, and not to withhold it from those entitled to it.

And ʿAlī ibn Abī Ṭālib (may Allah be pleased with him) used to say, when he learned that some of his deputies had wronged others: **“O Allah, I did not command them to wrong Your creation or to abandon Your right.”**

Chapter

The state revenues whose basis is found in the Book and the Sunnah are of three kinds: **spoils of war (ghanīmah)**, **alms (ṣadaqah)**, and **fay**ʾ.

As for **spoils of war (ghanīmah)**, they are the wealth taken from the disbelievers through fighting. Allah—Glorified and Exalted—is—mentioned them in Sūrat al-Anfāl, which was revealed concerning the Battle of Badr, and it was named “Anfāl” because they are an addition to the wealth of the Muslims. Allah تعالى said:

“They ask you about the spoils. Say: the spoils belong to Allah and the Messenger…”
(Qurʾān 8:1)

And He said:

“And know that whatever you take as spoils—then indeed one fifth of it is for Allah, and for the Messenger, and for the near relatives, and for orphans, and for the needy, and for the traveler…”
(Qurʾān 8:41)

And He also said:

“…So eat of what you have taken as spoils, lawful and good…”
(Qurʾān 8:69)

In the two Ṣaḥīḥs, from Jābir ibn ʿAbd Allāh (may Allah be pleased with him), the Prophet ﷺ said:

“I have been given five things that were not given to any prophet before me: I was supported by awe for the distance of a month’s journey; the earth was made for me a mosque and a means of purification—so any man of my community whom the prayer time reaches, let him pray; spoils were made lawful for me, and were not made lawful for anyone before me; I was given intercession; and every prophet was sent to his people in particular, whereas I have been sent to all people.”

And the Prophet ﷺ said:

“I was sent with the sword before the Hour, until Allah alone is worshipped without partner; my provision was placed under the shade of my spear; humiliation and abasement were placed upon whoever opposes my command; and whoever imitates a people is one of them.”

What is obligatory regarding spoils is to take one fifth and allocate that fifth to those Allah تعالى has specified, and to divide the remainder among those who took part. ʿUmar ibn al-Khaṭṭāb (may Allah be pleased with him) said: “The spoils are for those who witnessed the battle”—meaning those who were present for combat, whether they fought or did not fight. And it must be distributed among them with justice, without favoritism toward anyone—neither for leadership, nor lineage, nor virtue—just as the Prophet ﷺ and his successors used to distribute it.

In Ṣaḥīḥ al-Bukhārī, Saʿd ibn Abī Waqqāṣ thought he had superiority over those beneath him; so the Prophet ﷺ said:

“Are you supported and provided for except through your weak ones?”

And in the *Musnad* of Aḥmad, Saʿd ibn Abī Waqqāṣ said: I said, “O Messenger of Allah, a man may be the protector of the people—yet his share and the share of another are equal?!” He said:

“May your mother lose you, O son of Umm Saʿd! Are you provided for and aided except through your weak ones?”

Spoils continued to be divided among the fighters in the Umayyad and Abbasid eras, when Muslims campaigned against the Romans, the Turks, and the Berbers. Yet it is permissible for the imām to grant *extra allotments (nafl)* to someone who demonstrates exceptional effectiveness in harming the enemy: such as a detachment that breaks through from the army;

or a man who climbs a high fortress and opens it; or one who charges the enemy's front, kills, and thereby routs the enemy; and the like. For the Prophet ﷺ and his successors would grant such extra allotments for this.

It is reported that he would grant the detachment in the initial expedition one quarter (after the fifth), and on the return one third (after the fifth). Some scholars said that this extra allotment comes from the fifth; others said it comes from one fifth of the fifth so that some fighters are not preferred over others. The sound view is that it is permissible from the four fifths, even though this involves preferring some over others—provided it is for a religious interest (*maṣlaḥah*) rather than personal desire—as the Prophet ﷺ did on more than one occasion. This is the view of the jurists of Syria, and of Abū Ḥanīfah, Aḥmad, and others.

On this basis, it is said: the quarter and the third may be granted with or without a prior stipulation, while any increase beyond that is granted by stipulation—such as saying: "Whoever guides me to a fortress will have such-and-such," or "whoever brings a head will have such-and-such," and the like. And it is said: no extra allotment is granted beyond one third, and it is not granted except by stipulation—two reported views from Aḥmad and others.

Likewise—according to the sound view—the imām may say: "Whoever takes something, it is his," if he sees that the public interest (*maṣlaḥah*) outweighs the harm.

When the imām gathers the spoils and distributes them, it is not permissible for anyone to take from them anything by stealth; Allah تعالى says:

"It is not for a prophet to act dishonestly regarding spoils…"
(Qurʾān 3:161)

For *ghulūl* (embezzlement of spoils) is betrayal. Plundering (*nahbah*) is also impermissible, for the Prophet ﷺ forbade it. But if the imām does not gather and distribute, and instead permits taking by a lawful permission, then whoever takes something without transgression may lawfully possess it—after its fifth is taken; and whatever indicates permission is permission.

But if he does not permit it, or permits it with an unlawful permission, then a person may take only the amount that would reach him through proper division—seeking fairness in that.

Whoever forbids the Muslims from collecting spoils in such a situation, or allows the imām to do whatever he wishes with them, has set two extremes against each other—while the religion of Allah is a middle path.

Justice in division is that the infantryman receives one share, and the cavalryman with an Arab horse receives three shares: one for him and two for his horse. Thus did the Prophet ﷺ divide at Khaybar. Some jurists say the cavalryman receives only two shares; but the first is what the authentic Sunnah indicates—because the horse requires upkeep, and a handler, and its benefit to people is greater than the benefit of two infantrymen. Some say there is no distinction in this between the Arab horse and the non-Arab crossbreed; others say the crossbreed receives only one share, as has been narrated from the Prophet ﷺ and his companions.

If what is taken as spoil is property that previously belonged to Muslims—real estate or movable goods—and its owner recognizes it before division, then it is returned to him by consensus.

The details and rulings of spoils have transmitted reports and juristic statements: Muslims agreed on some matters and disputed others. This is not the place for those details; the purpose here is to mention comprehensive principles.

Chapter

As for **alms (ṣadaqāt)**, they are for those Allah—Glorified and Exalted—is—named in His Book. It is narrated that a man asked the Prophet ﷺ for charity, and he said:

“Allah was not pleased to assign charity by the decision of a prophet or anyone else; rather, He divided it into eight categories. If you are among those categories, I will give you.”

The **poor (fuqarāʾ)** and the **needy (masākīn)** are joined by the meaning of need for sufficient provision. Charity is not lawful for a wealthy person, nor for a strong person able to earn.

Those **employed to administer it (al-ʿāmilūn ʿalayhā)** are those who collect it, safeguard it, record it, and the like.

Those **whose hearts are to be reconciled (al-muʾallafah qulūbuhum)** will be mentioned—Allah willing—under the wealth of fayʾ.

“In freeing slaves (fī al-riqāb)” includes assisting those under manumission contracts, ransoming captives, and emancipating slaves—this is the strongest view regarding it.

The **debtors (al-ghārimūn)** are those who have debts they cannot repay; they are given what repays their debts even if large—unless they incurred them in disobedience to Allah, in which case they are not given until they repent.

“In the path of Allah (fī sabīl Allāh)” refers to fighters who do not have from Allah’s public funds what suffices them for their campaign; thus they are given what they can campaign with, or what completes their campaign: mounts, weapons, provisions, and wages. And ḥajj is among “the path of Allah,” as the Prophet ﷺ said.

And **the traveler (ibn al-sabīl)** is the one passing from one land to another.

And as for **fayʾ**, Its basis is what Allah—Glorified and Exalted—is—mentioned in Sūrat al-Ḥashr, revealed concerning the expedition of Banū al-Naḍīr, in His saying:

“Whatever Allah has restored (afāʾa) to His Messenger from them—you did not spur on for it any horses or camels; but Allah gives His messengers authority over whom He wills… so that it does not become a fortune circulating among the wealthy among you… Whatever the Messenger gives you, take it; and whatever he forbids you, refrain… [and He described] the emigrants, the helpers, and those who come after them…”
(Qurʾān 59:6–10)

Thus Allah mentioned the Emigrants and the Helpers, and those who come after them with the described qualities; so the third category includes everyone who comes in that manner until the Day of Resurrection. They also enter under His saying:

“And those who believed afterward, and emigrated and strove with you…”
(Qurʾān 8:75)

And His saying:

“And those who followed them with excellence…”
(Qurʾān 9:100)

And His saying:

“And others among them who have not yet joined them…”
(Qurʾān 62:3)

The meaning of “you did not spur on for it horses or camels” is: you did not move or drive cavalry or mounts for it; hence the jurists said that fayʾ is what is taken from the disbelievers without fighting—because driving horses and camels is the meaning of combat.

It was named ***fayʾ*** because Allah تعالى “restored” it to the believers—i.e., returned it to them from the disbelievers. The original purpose of wealth is to aid in worship, for Allah created creation for His worship. When disbelievers do not use their lives to worship Him, and do not use their wealth to aid in worship, Allah makes their wealth lawful for His believing servants who worship Him, and returns to them what they deserve—like an inheritance returned to someone who was deprived of it, even if he had not previously held it in hand.

This includes the jizyah upon Jews and Christians; the wealth agreed upon in truces; what the enemy gives as a gift to the ruler of the Muslims; the loads brought from the lands of the non-Muslims; what is taken from merchants of hostile lands as a tenth; and what is taken from merchants of the protected non-Muslims (ahl al-dhimmah) when they trade outside their lands—half of the tenth—just as ʿUmar ibn al-Khaṭṭāb (may Allah be pleased with him) used to take. It also includes what is taken from those who break covenant among them, and the land-tax (kharāj) that was originally levied upon them, even if some of it has come to be levied upon some Muslims.

Along with fayʾ are all state revenues belonging to the public treasury (bayt al-māl): such as wealth that has no specified private owner—like a Muslim who dies leaving no known heir; and

property seized unjustly, borrowed property, and deposits whose owners cannot be identified; and other Muslim property, both real estate and movable goods.

This and similar wealth is Muslim wealth. Allah تعالى mentioned fayʾ explicitly in the Qurʾān because, in the Prophet's ﷺ time, no one would die without leaving a known heir, due to clear genealogies among his companions.

Once, a man from a tribe died, and his inheritance was given to the senior member of that tribe—meaning the closest of them by lineage to their common ancestor. A group of scholars held this view, including Imām Aḥmad in a stated position and others. And a man died leaving only a freed slave whom he had emancipated, so his wealth was given to that freed slave—also held by a group of scholars among Aḥmad's companions and others. And the inheritance of a man was given to someone from the people of his village. The Prophet ﷺ and his successors were broad in assigning the inheritance of one who died to anyone between whom and the deceased there existed a recognized connection, as we have mentioned.

He did not take from Muslims except the alms, and he commanded them to strive in the path of Allah with their wealth and their selves, as Allah تعالى commanded in His Book.

There was no comprehensive register (*dīwān*) for the monies collected and distributed during his time, nor during the time of Abū Bakr (may Allah be pleased with him). Rather, wealth would be distributed little by little. But in the time of ʿUmar (may Allah be pleased with him), wealth increased, lands expanded, and people became numerous; so he established the **dīwān of stipends** for the fighters and others.

In our time, the **army register (dīwān al-jaysh)** includes most of that register, and it is among the most important registers of the Muslims.

The provinces had registers for **kharāj** and **fayʾ**, for what was received of revenues; and the Prophet ﷺ and his successors used to audit the officials regarding alms, fayʾ, and other matters.

Thus, in these times and those before them, revenues have become three kinds:

1. A kind which the imām is entitled to collect by the Book, the Sunnah, and consensus—such as what we have mentioned.

2. A kind whose collection is forbidden by consensus—such as the levies taken from the people of a village for the public treasury because someone was killed among them even though he has an heir; or what is taken from a man because of a prescribed legal punishment he committed, so that punishment is dropped in exchange; and such as unlawful tolls (*mukūs*) whose imposition is not permitted by agreement.

3. A kind concerning which there is ijtihād and dispute—such as the wealth of one who has a relative by kinship who is neither a fixed-share heir nor an agnatic heir; and the like.

Oppression often occurs from rulers and subjects alike: the former take what is unlawful, and the latter withhold what is obligatory—just as soldiers and farmers may wrong one another; and just as some people abandon of jihād what is obligatory; and rulers hoard from Allah's wealth what is unlawful to hoard. Likewise, with penalties used to force payment: sometimes what is permissible or even obligatory is abandoned, and sometimes what is unlawful is done.

The foundational principle here is that anyone upon whom a payment is obligatory must render it—such as a man holding a deposit, or funds in a muḍārabah partnership, or a joint partnership, or the wealth of his principal, or the wealth of an orphan, or endowment funds, or public-treasury funds; or someone who owes a debt and is able to pay it. If such a person refuses to discharge the obligatory right—whether a specific item or a debt—and it is known that he is able to discharge it, then he deserves punishment until he produces the wealth or indicates its location. If the wealth is identified and he endures imprisonment, then the right is taken from the wealth, and there is no need to beat him.

But if he refuses to point out his wealth and refuses to pay, he is struck until he renders the right or becomes able to render it. Likewise, if he refuses to provide the obligatory maintenance while capable of doing so—because it is narrated from the Prophet ﷺ:

"The procrastination of one who is able makes his honor and his punishment lawful."

And he ﷺ said:

"The procrastination of the wealthy is injustice."

The wrongdoer deserves punishment and disciplinary sanction (*taʿzīr*). This is an agreed foundation: whoever commits a prohibited act or leaves an obligation deserves punishment. If it is not fixed by the Law, then it is discretionary punishment, in which the authority-holder exercises judgment. Thus the wealthy procrastinator is punished by imprisonment; if he persists, he is punished by striking until he performs what is obligatory. The jurists among the followers of Mālik, al-Shāfiʿī, Aḥmad, and others have explicitly stated this, and I know no disagreement concerning it.

It is narrated that when the Prophet ﷺ made peace with the people of Khaybar over gold and silver and weapons, he asked a Jew—who was the custodian of Ḥuyayy ibn Akhṭab—about the treasure of Ḥuyayy ibn Akhṭab. He replied, "It was consumed by expenditures and wars." The Prophet ﷺ said, "The covenant is recent, and the wealth is more than that." So the Prophet ﷺ handed that custodian over to al-Zubayr, and he subjected him to punishment; then he said, "I saw Ḥuyayy circling around a ruin here." They went and searched and found the treasure in that ruin.

That man was a dhimmī, and a dhimmī's punishment is not lawful except by right. Likewise, anyone who conceals what he is obligated to disclose—such as an obligatory indication (of wealth) and similar matters—is punished for abandoning the obligation.

As for what revenue officials and others have taken from the wealth of Muslims without right, then it is for the just authority-holder to recover it from them—such as gifts they take because of their office. Abū Saʿīd al-Khudrī (may Allah be pleased with him) said: "The gifts of officials are *ghulūl*."

It is narrated from Ibn ʿAbbās (may Allah be pleased with them) that the Prophet ﷺ said:

"The gifts of rulers are *ghulūl*."

And in the two Ṣaḥīḥs, from Abū Ḥumayd al-Sāʿidī (may Allah be pleased with him): the Prophet ﷺ appointed a man from al-Azd, called Ibn al-Lutbiyyah, to collect alms. When he returned, he said, "This is for you, and this was given to me as a gift." The Prophet ﷺ said:

"What is the matter with a man whom we appoint to a task from what Allah has entrusted to us, and he says: 'This is for you, and this was given to me as a gift'? Why did he not sit in his father's house or his mother's house and see whether gifts would come to him or not? By Him in whose hand is my soul, he does not take anything except that he will come with it on the Day of Resurrection carrying it on his neck: if it is a camel, it will have a groan; if a cow, it will have a lowing; if a sheep, it will bleat."

Then he raised his hand until we saw the whiteness of his armpits, saying three times:

"O Allah, have I conveyed? O Allah, have I conveyed?"

Likewise, favoritism shown by rulers in transactions—sales, leasing, partnership investment, sharecropping arrangements, and the like—is of the same nature as a gift. For this reason, ʿUmar ibn al-Khaṭṭāb (may Allah be pleased with him) used to take half of the wealth from certain officials who had surplus piety and religion and were not accused of clear betrayal. He did that because they had been singled out—on account of office—for preferential treatment and similar benefits. The situation required this, because he was a just imām who distributed equally.

When the imām and the subjects change, then what is obligatory upon every person is to do of the obligations what he can, to leave what is prohibited to him, and not to forbid himself what Allah has made lawful.

People may be tested by officials who refuse gifts and the like, so that by this they can extract grievances from them, while abandoning what Allah obligated of fulfilling people's needs. In such a case, the people may find that someone taking compensation from them in exchange for withholding oppression and fulfilling a lawful need is more beloved to them than that kind of official—for the first has sold his Hereafter for the worldly life of another. And the most losing of people in trade is the one who sells his Hereafter for the worldly life of someone else.

What is obligatory is to withhold oppression from them to the extent of one's ability, and to fulfill their needs without which people's welfare is not achieved—such as conveying their needs to the authority, acquainting him with their circumstances, directing him to their interests, and

diverting him from their harms by gentle means and other means—just as those who pursue worldly aims among scribes and others do for their own aims. In the ḥadīth of Hind ibn Abī Hālah, it is reported that the Prophet ﷺ used to say:

“Convey to me the need of one who cannot convey it; for whoever conveys to one in authority the need of one who cannot convey it, Allah will make his feet firm upon the Bridge on the Day when feet slip.”

And it is also narrated that the Prophet ﷺ said:

“Whoever intercedes for his brother with an intercession, and a gift is given to him for it and he accepts it, has come to a tremendous gate among the gates of usury.”

And it is narrated from ʿAbd Allāh ibn Masʿūd (may Allah be pleased with him) that he said: “*Suḥt* is when a man seeks a need for someone and it is fulfilled, and then he is given a gift for it and he accepts it.”

It is also narrated from Masrūq that he spoke to Ibn Ziyād regarding a wrongdoing and had it removed; then the person gave him a young servant as a gift, but he returned it and said: I heard Ibn Masʿūd say: “Whoever removes a wrongdoing from a Muslim, and then receives even a little or a lot for it, it is *suḥt*.” Masrūq said: I said, “O Abū ʿAbd al-Raḥmān, we used to think *suḥt* was only bribery in judgment.” He replied: “That is disbelief.”

As for when the authority-holder extracts from officials wealth that he wants to reserve for himself and his relatives, then it is not appropriate to aid either of the two parties—because each of them is a wrongdoer, like one thief stealing from another, or like two factions fighting over partisanship and leadership. It is not lawful for a man to be an assistant in wrongdoing. Cooperation is of two types:

One: cooperation in righteousness and Godfearing—such as jihād, establishing legal penalties, recovering rights, and giving to those entitled. This is what Allah and His Messenger commanded. Whoever withholds from it out of fear of being among the helpers of oppressors has abandoned an individual obligation or a communal obligation, imagining himself to be pious; and how often cowardice and stinginess are confused with piety, since each involves withholding and restraint.

The second: cooperation in sin and transgression—such as helping in shedding protected blood, or taking seized wealth, or striking one who does not deserve to be struck, and the like. This is what Allah and His Messenger forbade.

Yes: if wealth has been taken unlawfully and it has become impossible to return it to its owners—as happens with much of the state revenue—then assisting in directing this wealth toward the interests of the Muslims—such as strengthening the frontiers and funding the fighters, and the like—is assistance in righteousness and Godfearing. For what is obligatory upon the ruler in such wealth—if the owners cannot be identified and it cannot be returned to them or their heirs—is that he spend it, together with repentance if he is the wrongdoer, in the

interests of the Muslims. This is the view of the majority of scholars, such as Mālik, Abū Ḥanīfah, and Aḥmad, and it is transmitted from more than one Companion.

And if another person took it, then he too must do likewise with it. Likewise, if the ruler refuses to return it, then helping to spend it in the interests of those entitled is preferable to leaving it in his hand and in the hand of those who will waste it upon the owners and upon the Muslims.

For the axis of the Sharīʿah is Allah's saying:

"So fear Allah as much as you are able."
(Qurʾān 64:16)

—interpreting His saying:

"Fear Allah as He ought to be feared."
(Qurʾān 3:102)

—and the Prophet's ﷺ saying:

"When I command you to do something, do of it what you are able."

And it is also based upon the principle that obligations aim at attaining benefits and completing them, and eliminating harms and reducing them. When they conflict, then attaining the greater of two benefits while foregoing the lesser, and repelling the greater of two harms while bearing the lesser, is what is prescribed.

The one who helps in sin and transgression is the one who helps the oppressor in his oppression. But whoever helps the wronged person to lessen oppression upon him, or to discharge the wrongful exaction, is the agent of the wronged person—not the agent of the oppressor—like one who lends him money, or one who undertakes to carry the money for him to the oppressor.

An example of this is the guardian of an orphan or an endowment: if a wrongdoer demands money from him, and he strives to deflect that with something less—either to him or to someone else—after full effort to repel it, then he is doing good, and there is no blame upon the doers of good.

Likewise, the agent of an owner among auctioneers, scribes, and the like, who undertakes contracts, collection, and paying what is demanded from them—he is not an agent for wrongdoers in taking.

And likewise, if an unlawful exaction is imposed upon the people of a village, an alley, a market, or a city, and a man of beneficence mediates to repel it from them to the extent possible, and apportions it among them according to their capacity without favoritism to himself or to others and without bribery—rather acting as their agent in repelling and paying—then he is a doer of good.

But often the one who enters such matters is the agent of wrongdoers: showing favoritism, taking bribes, protecting whom he wishes, and extracting from whom he wishes. Such people are among the greatest oppressors—who will be gathered in coffins of fire, along with their helpers and those like them, and then thrown into the Fire.

Chapter

As for **expenditures**, what is obligatory is to begin the distribution with what is **most important**, then what is next most important—among the general public interests of the Muslims—such as stipends for those through whom the Muslims obtain broad public benefit.

Among them are the **fighters**, the people of **support and jihād**, and they are the most entitled to the **fay**ʾ—for it is not obtained except through them. The jurists therefore differed concerning the wealth of fayʾ: is it exclusive to them, or is it shared across all public interests? As for the rest of the state revenues, then they are for all public interests by agreement—except what is restricted to a specific category, such as alms and war-booty.

Among those entitled to it are those who hold positions over the people—such as governors, judges, scholars, and the collectors of revenues in gathering, safeguarding, distributing, and the like; even the imāms of prayer and the callers to prayer, and those similar to them.

Likewise, it is spent on prices and wages for matters whose benefit is general—such as strengthening the frontier posts with mounts and weapons, and building what needs building in people's thoroughfares—like bridges and causeways—and the routes of water, like canals and rivers.

Among those entitled to it are the people of need. The jurists differed: are they given priority—outside of alms—when it comes to fayʾ and the like, over others? There are two views in the school of Aḥmad and others. Some said: they are given priority. Others said: the wealth is deserved by **Islam**, so they share in it like heirs share in inheritance. The correct view is that they **are given priority**, for the Prophet ﷺ gave priority to people of need, as he gave them priority in the wealth of Banū al-Naḍīr.

And ʿUmar ibn al-Khaṭṭāb (may Allah be pleased with him) said: No one has more right to this wealth than anyone else; rather, it is the man and his **precedence**, the man and his **usefulness**, the man and his **service in trial**, and the man and his **need**.

So ʿUmar (may Allah be pleased with him) made them into four categories:

- Those of **prior merits**, by whose precedence the wealth was obtained.

- Those who **enrich** the Muslims by bringing them benefits—such as statesmen and scholars who bring them the benefits of religion, this world, and the Hereafter.

- Those who perform well in **repelling harm** from them—such as those who fight in the path of Allah, including soldiers and scouts and those who are purposeful and sincere advisers, and the like.

- The people of **need**.

If among these there is one who volunteers, then Allah has sufficed by him; otherwise he is given what suffices him, or what matches the measure of his work. When you know that giving is according to a man's benefit and according to his need—whether in public-interest wealth and also in alms—then anything beyond that is not his right except in the same way it is the right of his counterparts, such as when he is a partner in booty or inheritance.

It is not permissible for the imām to give someone what he does not deserve out of personal desire—because of kinship, affection, and the like—let alone to give him for the sake of unlawful benefit received from him: such as gifts to effeminate men who pursue beardless boys—free or enslaved—and the like; or to prostitutes, singers, entertainers, and the like; or to fortune-tellers among soothsayers, astrologers, and their like.

But it is permissible—rather, it may be obligatory—to give in order to **soften the heart** of one whose heart needs softening, even if it is not lawful for that person to take it. This is like Allah's permitting, in the Qur'an, giving to **those whose hearts are to be reconciled** from alms; and like how the Prophet ﷺ used to give such people from fayʾ and the like. They were obeyed leaders among their clans—such as al-Aqraʿ ibn Ḥābis, ʿUyaynah ibn Ḥiṣn, Zayd al-Khayr of Ṭayyiʾ, and ʿAlqamah ibn ʿUlāthah—along with leaders of Quraysh among the "freedmen" after the conquest, such as Ṣafwān ibn Umayyah, ʿIkrimah ibn Abī Jahl, Abū Sufyān ibn Ḥarb, Suhayl ibn ʿAmr, al-Ḥārith ibn Hishām, and many others.

In the two Ṣaḥīḥs, from Abū Saʿīd al-Khudrī (may Allah be pleased with him): ʿAlī, while he was in Yemen, sent a piece of gold still embedded in its earth to the Messenger of Allah ﷺ, and the Messenger ﷺ divided it among four men… Then Quraysh and the Anṣār became upset and said: "He gives the nobles of Najd and leaves us!" So the Messenger of Allah ﷺ said:

"I only did that to win them over."

Then a man came—thick-bearded, prominent cheekbones, deep-set eyes, protruding forehead, shaved head—and said: "Fear Allah, O Muḥammad." The Messenger of Allah ﷺ said:

"Who will obey Allah if I disobey Him? He entrusts me with the people of the earth, and you do not trust me?"

Then the man turned away. A man sought permission to kill him—people thought it was Khālid ibn al-Walīd—so the Messenger of Allah ﷺ said:

"From the offspring of this man will come a people who recite the Qur'an but it does not pass beyond their throats. They will kill the people of Islam and leave the

idol-worshippers. They will pass out of Islam as an arrow passes out of the game. If I reach them, I will kill them with the killing of ʿĀd."

And it is narrated that the Prophet ﷺ gave Abū Sufyān ibn Ḥarb, Ṣafwān ibn Umayyah, ʿUyaynah ibn Ḥiṣn, and al-Aqraʿ ibn Ḥābis—each one of them one hundred camels—and he gave al-ʿAbbās ibn Mirdās less than that. So al-ʿAbbās ibn Mirdās recited poetry, and the Prophet ﷺ completed his gift to one hundred. (Narrated by Muslim.)

Those whose hearts are to be reconciled are of two types: **a disbeliever** and **a Muslim**.

As for the disbeliever: either there is hoped from giving him a benefit—such as his embracing Islam—or repelling his harm if it cannot be repelled except by that.

As for the influential Muslim: there is also hoped from giving him benefit—such as improving his Islam, or the Islam of his peer, or collecting wealth from those who will not give except out of fear, or harming the enemy, or restraining his harm from the Muslims if it cannot be restrained otherwise.

This kind of giving—although outwardly it looks like giving to leaders and leaving the weak, as kings do—yet actions are by intentions. If the aim is the interest of the religion and its people, then it is of the same type as the giving of the Prophet ﷺ and his successors. But if the aim is domination on earth and corruption, then it is of the same type as the giving of Pharaoh. And it is only condemned by the one whose religion is corrupted—like Dhū al-Khuwayṣirah who objected to the Prophet ﷺ, and thus the Prophet ﷺ said what he said about him.

Likewise his faction, the Khawārij, objected to the Commander of the Faithful ʿAlī (may Allah be pleased with him) regarding what he did for a perceived interest—such as accepting arbitration, erasing his title, and refraining from enslaving the women and children of Muslims. The Prophet ﷺ commanded fighting them, because they possess a corrupted religiosity that benefits neither this world nor the Hereafter.

Very often corrupted "piety" is confused with cowardice and stinginess—since both involve refraining. Thus refraining from corruption out of fear of Allah can be confused with refraining from what one is commanded—like jihād and spending—out of cowardice and stinginess. And the Prophet ﷺ said:

"The worst thing in a man is anxious greed and paralyzing cowardice."

Likewise, a person may abandon action, thinking—or displaying—that it is piety, when it is actually arrogance and a desire for superiority. The Prophet's ﷺ saying:

"Actions are only by intentions."

is a comprehensive principle: the intention for an act is like the soul to the body. Otherwise, both the one who prostrates to Allah and the one who prostrates to the sun and moon have placed

their forehead on the ground—their outward form is the same—yet this one is among the closest of creation to Allah, and that one among the farthest.

Allah the Exalted said:

“And urge one another to truth, and urge one another to patience.”
(Qur’ān 103:3)

And He said:

“And they urge one another to patience, and urge one another to mercy.”
(Qur’ān 90:17)

And it is related in a report:

“The best faith is generosity and patience.”

Thus the care of people and their governance is not completed except through generosity—which is giving—and through courage—which is bravery. Indeed, religion and worldly life do not become sound except through that.

For this reason, whoever does not establish these two, Allah strips authority from him and transfers it to another, as Allah the Exalted said:

“O you who believe, what is the matter with you that when it is said to you: ‘Go forth in the path of Allah,’ you cling heavily to the earth? Are you satisfied with the life of this world over the Hereafter? But the enjoyment of the life of this world compared to the Hereafter is only little. If you do not go forth, He will punish you with a painful punishment, and will replace you with another people, and you will not harm Him at all. And Allah is over all things capable.”
(Qur’ān 9:38–39)

And He said:

“Here you are—those who are called to spend in the path of Allah; but among you are those who are stingy. And whoever is stingy is only stingy against himself. Allah is the Free of need, and you are the poor. And if you turn away, He will replace you with a people other than you; then they will not be the likes of you.”
(Qur’ān 47:38)

And He said:

“Not equal among you are those who spent before the conquest and fought. Those are greater in rank than those who spent afterward and fought—yet Allah has promised the best to all.”
(Qur’ān 57:10)

So He attached the matter to spending—which is generosity—and fighting—which is courage. He also said elsewhere:

“And strive in the path of Allah with your wealth and your selves.”
(Qur’ān 9:41)

And He clarified that stinginess is among the major sins in His saying:

“And let not those who are stingy with what Allah has given them from His bounty think it is good for them; rather it is bad for them. What they were stingy with will be hung around their necks on the Day of Resurrection.”
(Qur’ān 3:180)

and His saying:

“And those who hoard gold and silver and do not spend it in the path of Allah—give them tidings of a painful punishment…”
(Qur’ān 9:34)

Likewise cowardice appears in His saying:

“And whoever turns his back to them on that day—unless maneuvering for battle or joining another group—has certainly incurred wrath from Allah, and his refuge is Hell.”
(Qur’ān 8:16)

and His saying:

“They swear by Allah that they are from you, but they are not from you; rather they are a people who are afraid.”
(Qur’ān 9:56)

—and this theme is abundant in the Book and Sunnah, and agreed upon by the people of the earth.

But people then divided into three groups:

1. A group dominated by love of superiority on earth or corruption. They did not consider the Hereafter, and they saw that authority cannot stand except by giving, and that giving may not be possible except by extracting wealth unlawfully. So they became plunderers and bribe-givers. They say: no one can rule people except one who eats and feeds; if an abstinent man takes authority—one who neither eats nor feeds—then the leaders will resent him and remove him, if they do not harm him in his person and wealth. They looked to their immediate worldly gain and neglected the future of their worldly life and their Hereafter, so their end is evil in this world and the next—unless they attain what rectifies their Hereafter, such as repentance and the like.

2. A group with fear of Allah and religion that prevents them from what they believe to be ugly: oppressing people and committing prohibitions. This is good and obligatory. But along with it they may believe that governance cannot be achieved except through the unlawful practices of the first group; so they refrain from governance altogether, or they discourage it absolutely. In their souls there may also be cowardice, stinginess, or harsh temperament supporting what religion they possess. Thus they sometimes fall into abandoning an obligation whose abandonment is more harmful to them than some prohibitions; or they fall into forbidding an obligation, thereby blocking Allah's path.

They may be interpreting matters, and they may believe that condemning such things is obligatory and cannot be achieved except through fighting—so they fight the Muslims as the Khawārij did. Such people do not produce a complete soundness of religion and worldly life, though they may bring much good in some aspects of religion and some worldly affairs. They may be excused in some matters where they strove and erred, and their deficiency may be forgiven; and they may be among the greatest losers whose efforts go astray in worldly life while they think they are doing good.

This is the way of one who neither takes for himself nor gives to others, and who does not see any legitimacy in winning over people—whether disbelievers or sinners—by wealth or benefit, and sees giving to those whose hearts are to be reconciled as a kind of injustice and forbidden giving.

3. The third group is the **middle** **الأمة**, the people of the religion of Muḥammad ﷺ and his successors, among the general public and the elite until the Day of Resurrection: spending wealth and benefits for people—even if they are leaders—according to the need for rectifying conditions, to establish religion and the worldly matters the religion requires; while being personally chaste, not taking what one does not deserve. Thus they combine Godfearing and excellence, as Allah said:

"Indeed Allah is with those who are Godfearing and those who are doers of excellence." (Qur'ān 16:128)

Religious governance is not completed except by this, and religion and worldly life are not set right except by this path. This is the one who feeds people what they need to be fed, while he himself eats only what is lawful and good. Such a person needs less spending to achieve reform than the first group needs, because the one who takes for himself becomes the target of people's greed in a way they do not direct toward the chaste. And by the chaste man, people are reformed in their religion in ways they are not reformed by the second group—because chastity alongside capability strengthens the sanctity of religion.

In the two Ṣaḥīḥs, from Abū Sufyān ibn Ḥarb: Heraclius, king of the Romans, asked him about the Prophet ﷺ, "What does he command you?" He said: He commands us to pray, to give charity, to be chaste, and to maintain ties of kinship.

And in a report: Allah revealed to His messenger Ibrāhīm the Friend—peace be upon our Prophet and upon him and upon all the prophets and messengers—"O Ibrāhīm, do you know why I took you as a friend? Because I see giving as more beloved to you than taking."

And what we mentioned about provision and giving—which is generosity and benefiting others—has its counterpart in patience and anger, which is courage and repelling harms: people are three kinds—one who becomes angry for himself and for his Lord; one who becomes angry neither for himself nor for his Lord; and the third—who is the middle path—becoming angry for his Lord, not for himself. As in the two Ṣaḥīḥs, from ʿĀʾishah (may Allah be pleased with her), she said:

"The Messenger of Allah ﷺ never struck with his hand a servant, nor a woman, nor an animal, nor anything at all—except that he would strive in the path of Allah. And no personal harm was ever done to him for which he took revenge for himself; but if the sanctities of Allah were violated, then when the sanctities of Allah were violated nothing could stand against his anger until he took vengeance for Allah, Blessed and Exalted."

As for the one who becomes angry for himself and not for his Lord—or who takes for himself and does not give others—this fourth type is the worst of creation, and neither religion nor worldly life is sound by them.

Whereas the righteous—masters of complete governance—are those who fulfill obligations and leave prohibitions. They give what rectifies religion by their giving, and they take only what is permitted to them; they become angry for their Lord when His prohibitions are violated; and they pardon regarding their personal shares. These are the traits of the Messenger ﷺ in his giving and his repelling harm; they are the most complete of affairs. The closer a person is to them, the more excellent he is.

So let the Muslim strive to draw near to them as much as he can, and then seek Allah's forgiveness after that for deficiency or shortcoming—after recognizing the perfection of what Allah sent Muḥammad ﷺ with of religion.

Chapter

As for His statement, the Exalted:

"And when you judge between people, judge with justice."
(Qur'ān 4:58)

Judging between people occurs in **ḥudūd** and **rights**, and they are of two kinds.

The first kind

The first kind is the ḥudūd and rights that are not for a specific people; rather, their benefit is for the Muslims in general—or for a category among them—and all are in need of them. They are

called the **limits of Allah** and the **rights of Allah**, such as: the ḥadd of highway robbers, thieves, fornicators, and the like; and such as rulings in governmental matters, endowments, and bequests that are not assigned to a particular individual.

These are among the most important matters of authority. For this reason ʿAlī ibn Abī Ṭālib (may Allah be pleased with him) said: People must have an authority—whether righteous or wicked. It was said: O Commander of the Faithful, the righteous one we understand; but what about the wicked one? He said: through it the ḥudūd are established, the roads become safe, the enemy is fought, and the **fayʾ** is distributed.

This category obligates the rulers to seek it out and establish it without anyone bringing a claim about it. Likewise, testimony in it is established without anyone bringing a claim—although the jurists differed regarding cutting the thief's hand: does it require the stolen item's owner to demand his property? There are two views in the school of Aḥmad and others. Yet they agree it does not require the stolen item's owner to demand the **ḥadd** itself; rather, some required a demand for the property so that the thief would not have a possible ambiguity.

This category must be established upon the noble and the lowly, the strong and the weak. It is not lawful to suspend it—neither by intercession, nor by a gift, nor by anything else. Intercession in it is not lawful. Whoever suspends it for that reason—while able to establish it—upon him is the curse of Allah, the angels, and all people; Allah will accept from him neither obligatory nor voluntary deeds, and he is among those who sold the verses of Allah for a small price.

It is narrated that the Prophet ﷺ said:

"Whoever's intercession prevents a ḥadd from the ḥudūd of Allah has opposed Allah in His command; whoever disputes in falsehood while knowing it remains in Allah's wrath until he stops; and whoever says about a Muslim what is not in him will be confined in the filth of Hell until he leaves what he said."

They asked: O Messenger of Allah, what is the filth of Hell? He said:

"The runoff of the people of Hellfire."

And in the two Ṣaḥīḥs, from ʿĀʾishah (may Allah be pleased with her): Quraysh were distressed about the Makhzūmī woman who stole. They said: who will speak to the Messenger of Allah ﷺ about her? They said: and who would dare except Usāmah ibn Zayd? So he spoke, and the Prophet ﷺ said:

"O Usāmah, do you intercede regarding a ḥadd from the ḥudūd of Allah? Indeed those before you were destroyed because when a noble person among them stole they left him, but when a weak person stole they established the ḥadd upon him. By the One in Whose hand is the soul of Muḥammad: if Fāṭimah daughter of Muḥammad stole, I would cut her hand."

There is a lesson in this story: the noblest houses in Quraysh were two clans—Banū Makhzūm and Banū ʿAbd Manāf. When cutting became obligatory upon this woman for her theft—whether it was the theft of a borrowed item according to some scholars, or another theft according to others—and she was from one of the greatest tribes and noblest houses, and Usāmah (the beloved of the Messenger of Allah ﷺ) interceded, the Messenger of Allah ﷺ became angry and rebuked him for entering into what Allah has forbidden: intercession in the ḥudūd. Then he gave the example of the leader of the women of the worlds—Allah having absolved her of such a thing—and said: **"If Fāṭimah daughter of Muḥammad stole, I would cut her hand."**

It is also narrated that the woman whose hand was cut repented, and afterward she would enter upon the Prophet ﷺ and he would fulfill her need.

And Mālik narrated in al-Muwaṭṭaʾ that some people seized a thief to raise him to ʿUthmān. Al-Zubayr met them and spoke to them about him. They said: if he is brought to ʿUthmān, intercede for him with him. He said: if the ḥudūd reach the ruler, then may Allah curse the intercessor and the one for whom intercession is accepted—meaning, the one who accepts it.

And Ṣafwān ibn Umayyah was sleeping upon a cloak of his in the Prophet's mosque, when a thief came and stole it. He was seized and brought to the Prophet ﷺ, and the Prophet ﷺ ordered that his hand be cut. Ṣafwān said: O Messenger of Allah, because of my cloak you cut his hand? I give it to him as a gift. He said:

"Why not before you brought him to me?"

Then he cut his hand.

Meaning: had you pardoned him before bringing him to me, it would have been possible; but after it is raised to me, it is not permissible to suspend the ḥadd—not by pardon, nor by intercession, nor by gifting, nor anything else.

For this reason, the scholars—so far as I know—agreed that the highway robber, the thief, and the like, if they are raised to the authority and then repent afterward, the ḥadd does not fall from them. Rather, it must be established even if they repent. If they are truthful in repentance, then the ḥadd is an expiation for them, and enabling it to be carried out upon them is part of repentance—like returning rights to their owners, and enabling retaliation in the rights of human beings.

The foundation of this is in the statement of Allah, the Exalted:

"Whoever intercedes with a good intercession will have a share of it; and whoever intercedes with an evil intercession will have a portion of it. And Allah is ever, over all things, a Keeper."
(Qur'ān 4:85)

Intercession is aiding the claimant until he becomes "paired" with him after having been alone. If one aids him upon righteousness and piety, it is a good intercession; and if one aids him upon

sin and transgression, it is an evil intercession. Righteousness is what Allah commanded, and sin is what He forbade. And if they are lying, then Allah does not guide the plot of the treacherous.

Allah also said:

“The recompense of those who wage war against Allah and His Messenger and strive upon the earth in corruption is that they be killed or crucified, or that their hands and feet be cut off on opposite sides, or that they be exiled from the land. That is for them disgrace in this world, and for them in the Hereafter is a great punishment—except those who repent before you have power over them; so know that Allah is Forgiving, Merciful.” (Qur’ān 5:33–34)

He only excepted those who repent **before** power is gained over them. As for the one who repents after power is gained over him, he remains among those upon whom the ḥadd is due—by the general wording, the implied meaning, and the reason.

This is when it is established by evidence. But if it is established by confession, and a person comes confessing the sin in repentance, then there is a dispute mentioned elsewhere. The apparent view in the school of Aḥmad is that the ḥadd is not necessarily established in this case: rather, if he requests the ḥadd be carried out upon him, it is carried out; but if he leaves, then no ḥadd is carried out upon him. This is how the ḥadīth of Māʿiz ibn Mālik is understood when the Prophet ﷺ said: **“Why did you not leave him?”**—and likewise the ḥadīth of the one who said: **“I committed an offense, so carry it out upon me.”**

And it is narrated from the Prophet ﷺ:

“Avoid the ḥudūd among yourselves; for whatever reaches me of a ḥadd, then it has become due.”

And it is narrated:

“A ḥadd carried out on the earth is better for the people of the earth than that they be given rain for forty…”

This is because sins are a cause for reduced provision and fear of the enemy, as the Book and the Sunnah indicate. When ḥudūd are established, obedience to Allah becomes manifest and disobedience decreases, so provision and victory are attained.

It is not permissible to take from the fornicator, thief, highway robber, and the like any wealth by which the ḥadd is suspended—neither for the public treasury nor for anyone else. This wealth taken to suspend the ḥadd is filthy illicit gain. If the ruler does that, he has combined two enormous corruptions:

1. suspending the ḥadd, and

2. consuming illicit gain—abandoning an obligation and committing a prohibition.

Allah the Exalted said:

“Why did the rabbis and scholars not forbid them from sinful speech and from consuming the unlawful? How evil is what they used to do.”
(Qur’ān 5:63)

And He said about the Jews:

“Listeners to lies, consumers of unlawful gain.”
(Qur’ān 5:42)

—because they used to consume unlawful gain from bribery, which is called **al-burṭīl**, and it is sometimes called “a gift” and the like. Whenever the ruler consumes unlawful gain, he becomes in need of hearing lies—false testimony and the like. And the Messenger of Allah ﷺ cursed the briber, the one bribed, and the intermediary between them.

And in the two Ṣaḥīḥs: two men brought a dispute to the Prophet ﷺ. One of them said: O Messenger of Allah, judge between us by the Book of Allah. The other—who was more knowledgeable—said: yes, O Messenger of Allah, judge between us by the Book of Allah, and permit me to speak. He said: **“Speak.”** He said: my son was an ʿ**asīf** in this man’s household—meaning, a hired worker—and he committed fornication with his wife. So I ransomed him with one hundred sheep and a servant. Then I asked men of knowledge and they informed me that my son owes one hundred lashes and a year of exile, and that this man’s wife owes stoning. So the Prophet ﷺ said:

“By the One in Whose hand is my soul, I will judge between you by the Book of Allah: the hundred and the servant are returned to you. And upon your son are one hundred lashes and a year of exile. And go, O Unays, to this man’s wife and ask her; if she confesses, then stone her.”

So he asked her, and she confessed, so he stoned her.

So in this ḥadīth: when this guilty party offered wealth to repel the ḥadd from himself, the Prophet ﷺ ordered that the wealth be returned to its owner, and he ordered that the ḥadd be carried out. He did not take that money for the Muslims—neither for fighters nor for the poor nor others.

The Muslims have agreed that suspending the ḥadd in exchange for wealth taken, or anything else, is not permissible; and they have agreed that the money taken from the fornicator, thief, drinker, highway robber, and the like, so that the ḥadd is suspended, is filthy illicit wealth.

Much of the corruption found in people’s affairs is only because ḥudūd are suspended for money or influence. This is among the greatest causes of corruption among desert-dwellers,

villages, and cities—among Arabs, Turkmens, Kurds, peasants, and people of factional passions; and among townsfolk too—leaders, rich and poor, commanders, officials, and soldiers. It causes the ruler's sanctity to fall, his worth to fall from hearts, and his authority to unravel. If he takes bribes and "burṭīl" to suspend a ḥadd, his own soul becomes too weak to establish another ḥadd; and he becomes like the accursed Jews.

The origin of **al-burṭīl** is an oblong stone. Bribery was named after it because it "plugs" the bribe-taker from speaking the truth—like an oblong stone plugging the mouth. It is said: "When bribery enters through the door, trustworthiness exits through the window opening," meaning: the small opening.

Likewise, if money is taken for the state upon that—such as this illicit wealth that is called "disciplinary payments"—do you not see how corrupt Bedouins, if they take money from some people, then come to the ruler and lead horses or other gifts to him, how their greed for corruption strengthens, the sanctity of authority is broken, and the subjects are corrupted?

Likewise with peasants and others. And likewise the drinker of wine: if he is seized and then ransoms himself with part of his wealth, how the wine-sellers become hopeful—thinking that if they are caught they will ransom themselves with part of their wealth—so the governor takes it as illicit gain with no blessing in it, while corruption remains established.

Likewise, people of status may "protect" someone so that the ḥadd is not carried out—such as when a peasant commits a crime and then seeks refuge in the village of a deputy of the ruler or an official, seeking protection against Allah and His Messenger. The one who protects him is among those cursed by Allah and His Messenger. For Muslim narrated from ʿAlī ibn Abī Ṭālib (may Allah be pleased with him) that the Messenger of Allah ﷺ said:

"May Allah curse the one who commits an offense, or shelters an offender."

So whoever shelters such an offender has been cursed by Allah and His Messenger.

If the Prophet ﷺ said:

"Whoever's intercession prevents a ḥadd from the ḥudūd of Allah has opposed Allah in His command,"

then what about the one who prevents the ḥudūd by his power and hand—and takes in exchange from criminals filthy illicit wealth? Especially the ḥudūd concerning the people of the open lands: among the greatest sources of their corruption is shielding aggressors among them by status or money—whether the money taken is for the treasury or for the governor secretly or openly. All of that is forbidden by consensus. It is like leasing out taverns and wine: whoever enables that or aids it in exchange for money is of the same type.

The money taken for this resembles what is taken from the prostitute's dowry, the fortune-teller's fee, the price of a dog, and the wage of the mediator in unlawful acts—who is called the procurer. The Prophet ﷺ said:

“The price of a dog is filthy; the prostitute’s dowry is filthy; and the fortune-teller’s fee is filthy.”

The prostitute’s dowry is what is called “the earnings of prostitutes.” And similarly: what effeminate men take from boys—slave or free—for committing indecency with them. The fortune-teller’s fee is like the sweetener paid to an astrologer and the like for what he claims to inform of glad tidings, and the like.

If the ruler abandons forbidding evil and establishing the ḥudūd upon it in exchange for money he takes, he is like the leader of thieves who shares with highway robbers the spoils of their robbery; and like the procurer who takes what he takes to bring two people together upon indecency. His state resembles the evil old woman—the wife of Lūṭ—who betrayed him and used to point the wicked toward his guests. Allah said:

“So We saved him and his family—except his wife; she was among those who remained behind.”
(Qur’ān 7:83)

And He said:

“…and let not any of you look back—except your wife; indeed she will be struck by what strikes them.”
(Qur’ān 11:81)

So Allah punished the evil old procuress with the same kind of punishment He punished the evil people who committed vile acts—because all of this is taking wealth to aid sin and transgression. The ruler was only appointed to command good and forbid evil—this is the purpose of authority. If the governor enables evil in exchange for money he takes, he has produced the opposite of the intended purpose—like one whom you appoint to help you against your enemy, but he helps your enemy against you; like one who takes money to fight in the path of Allah, then fights the Muslims with it.

This becomes clear because the rectification of lands and people is by commanding good and forbidding evil. Rectification in this world and the next lies in obedience to Allah and His Messenger, and that is not achieved except through commanding good and forbidding evil. By this, this nation became the best nation brought forth for humanity. Allah said:

“You are the best nation brought forth for mankind—you command what is right and forbid what is wrong…”
(Qur’ān 3:110)

And He said:

“Let there arise from you a community calling to good, commanding what is right and forbidding what is wrong…”
(Qur’ān 3:104)

And He said:

“The believing men and the believing women are allies of one another: they command what is right and forbid what is wrong…”
(Qur’ān 9:71)

And He said about the Children of Israel:

“They used not to forbid one another from wrongdoing that they did.”
(Qur’ān 5:79)

And He said:

“…We seized those who wronged with a severe punishment because of what they used to do.”
(Qur’ān 7:165)

So Allah informed that when punishment descended, He saved those who forbade evils, and He seized the wrongdoers with severe punishment.

And in the established ḥadīth: Abū Bakr al-Ṣiddīq (may Allah be pleased with him) addressed the people on the pulpit of the Messenger ﷺ and said: O people, you recite this verse and apply it in other than its place:

“O you who believe, upon you is yourselves; whoever goes astray will not harm you when you are guided.”
(Qur’ān 5:105)

And I heard the Messenger of Allah ﷺ say:

“When people see an evil and do not change it, it is soon that Allah will encompass them with a punishment from Him.”

And in another ḥadīth:

“When sin is hidden it harms only its doer; but when it becomes manifest and is not condemned, it harms the public.”

This category of judging in the limits and rights of Allah has as its greatest aim: commanding good and forbidding evil. Commanding good includes: prayer, zakāh, fasting, ḥajj, charity, trustworthiness, dutifulness to parents, maintaining kinship ties, good companionship with family and neighbors, and the like.

It is obligatory upon the ruler to command all those he can command to establish the prescribed prayers, and to punish the one who abandons them—by consensus of the Muslims.

If those who abandon them are a defiant group that refuses, they are fought for abandoning them—by consensus of the Muslims. Likewise they are fought for abandoning zakāh, fasting, and other obligations; and for deeming lawful the manifest, agreed-upon prohibitions—such as marrying those within forbidden degrees, spreading corruption on earth, and the like. Any group that refuses to commit to a manifest and widely transmitted part of the Sharīʿah must be fought until the religion is wholly for Allah—by agreement of the scholars.

If the one abandoning prayer is an individual, it has been said he is punished by beating and imprisonment until he prays. But the majority of scholars hold that he must be executed if he refuses to pray after being asked to repent—just as the apostate is asked to repent. If he repents and prays, then no; otherwise he is executed. Is he executed as a disbeliever, or as a sinful Muslim? There are two views. Most of the early generations held that he is executed as a disbeliever—this when he affirms its obligation. As for the one who denies its obligation, he is a disbeliever by consensus of the Muslims—and likewise whoever denies the other obligations and prohibitions that fighting is waged over.

Thus punishment for abandoning obligations and committing prohibitions is the aim of **jihād** in the path of Allah; it is an obligation upon the الأمة by agreement, as indicated by the Book and the Sunnah, and it is among the best of deeds.

A man said: O Messenger of Allah, guide me to an action equal to jihād in the path of Allah. He said:

“You will not be able to do it.”

He said: Tell me about it. He said:

“Are you able—when the fighter goes forth—to fast without breaking and to stand in prayer without ceasing?”

He said: Who can do that? He said:

“That is what equals jihād in the path of Allah.”

And he said:

“In Paradise there are one hundred درجات; between one level and the next is like what is between the sky and the earth. Allah prepared them for those who strive in His path.”

Both are in the two Ṣaḥīḥs.

And the Prophet ﷺ said:

“The head of the matter is Islam, its pillar is prayer, and the peak of its hump is jihād in the path of Allah.”

Allah the Exalted said:

“The believers are only those who believe in Allah and His Messenger, then do not doubt, and strive with their wealth and their selves in the path of Allah—those are the truthful.”
(Qur’ān 49:15)

And He said:

“Have you made providing water to pilgrims and maintaining the Sacred Mosque like one who believes in Allah and the Last Day and strives in the path of Allah? They are not equal with Allah…”
(Qur’ān 9:19–22)

Chapter

Among that is the punishment of the **muḥāribīn**—the highway robbers—who waylay people with weapons on roads and the like, in order to seize their property openly by force, whether they are Bedouins, Turkmens, Kurds, peasants, corrupt soldiers, hardened criminals of the cities, or others. Allah, Exalted is He, said about them:

“The recompense of those who wage war against Allah and His Messenger and strive upon the earth in corruption is that they be killed or crucified, or that their hands and feet be cut off on opposite sides, or that they be exiled from the land. That is for them disgrace in this world, and for them in the Hereafter is a great punishment.”
(Qur’ān 5:33)

Al-Shāfiʿī (may Allah have mercy on him) narrated in his Musnad, from Ibn ʿAbbās (may Allah be pleased with him) regarding highway robbers:

- If they **kill and take property**, they are **killed and crucified**.
- If they **kill but do not take property**, they are **killed but not crucified**.
- If they **take property but do not kill**, their **hands and feet are cut off on opposite sides**.
- If they **terrorize the road** but **take no property**, they are **exiled from the land**.

This is the view of many scholars, such as al-Shāfiʿī and Aḥmad, and it is close to the view of Abū Ḥanīfah. Others allow the ruler to exercise discretion with them: killing whom he deems that killing serves the public interest—even if he did not kill—such as a chief who is obeyed among them; and amputating whom he deems that amputation serves the public interest—even if he did not take property—such as one known for toughness and power in seizing wealth.

Some also hold that if they take property, they are killed, amputated, and crucified. But the first view is the view of most.

Whoever among the highway robbers has **killed**, then the ruler executes him as a **ḥadd punishment**. Pardon is not permitted in any case, by consensus of the scholars (as Ibn al-Mundhir mentioned). It is not left to the choice of the heirs of the slain—unlike the case where one man kills another due to personal enmity, a private dispute, or similar specific causes. In that case the blood-right belongs to the heirs: if they wish they retaliate, if they wish they pardon, and if they wish they take blood money—because he killed him for a private motive.

As for the highway robbers, they kill in order to take people's wealth, and their harm is public, like thieves. So their killing is a ḥadd for Allah. This is agreed upon among jurists.

Even if the person killed is not legally "equal" to the killer—such as a free man killing a slave, or a Muslim killing a dhimmī or a mustaʾmin (a non-Muslim under a pledge of safety), or even if the killed person is the killer's child—jurists differed whether he is executed in the case of highway robbery. The stronger view is that he is executed, as held by Mālik, and by Aḥmad in one report, and by al-Shāfiʿī in one view—because he is executed for public corruption as a ḥadd, just as he is amputated if he takes their wealth, and just as he may be imprisoned for their rights.

If the highway robbers are a group, and one of them directly carried out the killing while the others aided him and served as backing, it has been said that only the direct killer is executed. But the majority hold that **all of them are executed**, even if they were one hundred, and that the backer and the direct actor are the same. This is what is transmitted from the Rightly Guided Caliphs: ʿUmar ibn al-Khaṭṭāb (may Allah be pleased with him) executed the **rabīʾah** of the highway robbers—the rabīʾah being the lookout who sits in a high place to watch who approaches for them—because the direct actor only became able to kill through the strength and assistance of his backers.

A group that supports one another until they become collectively defiant shares in reward and punishment like an army of jihād. The Prophet ﷺ said:

"The Muslims' blood is equal; the least of them may give protection on behalf of them; they are one hand against all others; and their straggler is brought back by their settled one."

Meaning: if a Muslim army sends out a detachment that captures spoils, the army shares in what it captured—because by the army's backing and strength it became able—though the detachment may be given an additional share as a bonus. The Prophet ﷺ used to grant the detachment a quarter after the khums when they were at the start of the campaign; and if they returned to their lands and a detachment went out, he granted them a third after the khums. Likewise, if the army captures spoils, the detachment shares with it—because it was serving the army's interests—just as the Prophet ﷺ assigned shares to Ṭalḥah and al-Zubayr (may Allah be pleased with them both) on the day of Badr, because he had dispatched them on a mission serving the army. So the helpers of a defiant group share in what is for them and against them.

Likewise, those who fight one another upon falsehood with no plausible interpretation—such as those fighting for tribal partisanship and جاهلية claims, like Qays and Yemen and the like—both sides are unjust. The Prophet ﷺ said:

“When two Muslims meet with their swords, the killer and the killed are in the Fire.”
It was said: O Messenger of Allah, this is the killer—so what about the killed? He said:
“He intended to kill his companion.”
(Agreed upon)

Each group must guarantee what it destroyed of the other in lives and property even if the individual killer is not known—because a defiant group that supports itself is like a single person.

As for when they **only take property** and do not kill—like what the Bedouins often do—then the right hand and the left foot of each one are cut off, according to most scholars such as Abū Ḥanīfah, al-Shāfiʿī, Aḥmad, and others. This is the meaning of His statement, Exalted is He: **“or that their hands and feet be cut off on opposite sides.”** The hand by which he strikes is cut, and the foot by which he walks. The stump is cauterized with boiling oil and the like so that blood stops and does not flow—lest it lead to his death. Likewise the hand of the thief is cauterized with oil.

This may be a stronger deterrent than execution: if Bedouins, corrupt soldiers, and others continually see among them someone with a cut hand and foot, they remember his crime and are restrained. Unlike execution, which may be forgotten; and some proud souls may prefer being killed to having their right hand and left foot cut, so this becomes a harsher exemplary punishment for him and those like him.

If they **brandish weapons** but do not kill and do not take property, then they cease and flee, or they abandon the weapons, then they are “exiled”: it has been said their exile is by driving them away so they are not allowed to settle in a town; it has been said it means imprisoning them; and it has been said it is what the ruler deems most suitable of exile, imprisonment, and the like.

The prescribed method of execution is striking the neck with a sword and the like, because that is the gentlest kind of killing. Allah likewise prescribed killing those whose killing is permitted—among humans and animals—when one has the ability to do it in this manner. The Prophet ﷺ said:

“Allah has prescribed excellence in all things. So when you kill, kill well; and when you slaughter, slaughter well. Let one of you sharpen his blade and spare suffering to his animal.”
(Narrated by Muslim)

And he said:

“The most restrained people in killing are the people of faith.”

Chapter

As for the **crucifixion (ṣalb)** mentioned, it means raising them upon a high place so that people see them and their case becomes widely known. According to the majority of scholars, that is **after execution**. Others said they are crucified first, then executed while crucified.

Some jurists even permitted executing them by means other than the sword—some going so far as to say they may be left on a high place until they die naturally without being directly killed.

As for **mutilation in killing (muthlah)**, it is not permitted except by way of lawful retaliation (qiṣāṣ). ʿImrān ibn Ḥuṣayn (may Allah be pleased with him) said: the Messenger of Allah ﷺ never delivered a sermon to us except that he commanded us to give charity and forbade us from mutilation.

Even when we kill disbelievers in war, we do not mutilate them after death, nor cut off their noses and ears, nor rip open their bellies—unless they did that to us, in which case we may respond in kind; but refraining is better. Allah, Exalted is He, said:

“And if you punish, then punish with the like of that with which you were afflicted. But if you are patient—it is better for the patient.”
(Qur’ān 16:126)

It is said this was revealed when the polytheists mutilated Ḥamzah and others among the martyrs of Uḥud, and the Prophet ﷺ said: “If Allah grants me victory over them, I will mutilate them more than they mutilated us,” then Allah revealed this verse—though it had already been revealed earlier in Makkah. Certain verses were revealed in Makkah, then later an event in Madīnah occurred that made the address especially applicable, and so they were revealed again. Then the Prophet ﷺ said: “Rather, we will be patient.”

In Ṣaḥīḥ Muslim, from Buraydah ibn al-Ḥuṣayb: when the Messenger of Allah ﷺ appointed a commander over a detachment or an army, he would advise him privately to fear Allah and to treat the Muslims under him well, then he would say:

“Go forth in the name of Allah, in the path of Allah. Fight those who disbelieve in Allah. Do not steal from the spoils, do not betray, do not mutilate, and do not kill a child.”

Some sinful people dispute over certain forms of execution—such as burning with fire for severe crimes—and some allowed it because Abū Bakr (may Allah be pleased with him) ordered the burning of some apostates, and likewise ʿAlī ibn Abī Ṭālib (may Allah be pleased with him) burned extremists who claimed his divinity. Others forbade it because of the Prophet’s ﷺ prohibition of burning those whom someone had intended to burn.

If highway robbers brandish weapons **within buildings and towns**—not in open desert—in order to seize money, it has been said they are not “highway robbers” but rather like snatchers and looters, since the victim can be rescued if he cries for help. But the majority say their ruling

in towns and in deserts is the same. This is the well-known view of Mālik, as well as al-Shāfiʿī, most companions of Aḥmad, and some companions of Abū Ḥanīfah. Rather, they are more deserving of severe punishment in towns than in deserts, because towns are places of safety and calm; and because in towns people help and cooperate, so their daring attack indicates stronger force and greater defiance. Also, they may strip a man of all his wealth in his own home, whereas a traveler usually carries only part of his wealth.

This is the correct view—especially regarding those organized bands whom common people in Syria and Egypt call **al-mansar**, and who in Baghdad used to be called **al-ʿayyārīn**.

If they "wage war" using clubs or stones thrown by hand, or slings and the like, they are also highway robbers. Some jurists claimed there is no ḥirābah except with sharp weapons, and others transmitted a consensus that ḥirābah applies with both sharp and heavy weapons. Regardless, the sound view—held by the overwhelming majority of Muslims—is that whoever fights to seize wealth by any kind of fighting is a highway robber and road-cutter, just as disbelievers who fight Muslims by any kind of fighting are combatants; and Muslims who fight disbelievers with sword, spear, arrow, stones, or a stick are striving in the path of Allah.

As for one who kills people secretly in order to take money—such as one who sits at an inn for travelers, then when he is alone with some of them he kills them and takes their wealth; or he invites into his home someone who hires him for tailoring, medicine, or the like, then kills him and takes his wealth—this is called **"killing by treachery" (qatl ghīlah)**, and common people call such criminals **al-muʿriḍīn**.

If the motive is to seize wealth, are they treated like highway robbers, or is their case treated under ordinary retaliation (qiṣāṣ)? Jurists have two views:

1. They are like highway robbers, because killing by deception is like killing by open overpowering—both are difficult to guard against, and this may be even more harmful because it is hidden.

2. The highway robber is the one who fights openly, while the treacherous killer's case is left to the slain person's heirs.

The first is closer to the principles of the Sharīʿah; indeed this may be even more harmful because it is not detected.

Jurists also differed about those who kill the ruler—such as the killers of ʿUthmān, and the killer of ʿAlī (may Allah be pleased with them): are they like highway robbers and thus executed as a ḥadd, or is their case left to the blood-heirs? Two views are reported in the school of Aḥmad and others, because killing the ruler causes public corruption.

Chapter

All of that applies once they are captured. But if the ruler or his deputies seek them in order to establish the ḥadd without injustice, and they resist, then Muslims must fight them by agreement of the scholars until all of them are subdued. If they do not submit except through fighting that results in their deaths, they are fought even if it leads to that—whether they had killed or not. They may be killed in combat in whatever way possible, whether by striking the neck or elsewhere.

Whoever fights alongside them—protecting and aiding them—is also fought. This is combat, whereas the ḥadd is something else. Fighting these is among the most emphatic fights against groups that refuse the laws of Islam, because these have organized themselves for corruption of lives and wealth and for ruining crops and offspring: their aim is neither religion nor governance. They resemble bandits who withdraw to a fortress, cave, mountain peak, valley, and the like—cutting off the road of passersby; and when the ruler's soldiers come to bring them under the Muslims' authority and obedience so that the prescribed punishments are established, they fight them off—like Bedouins who cut off the road to pilgrims, or mountain people who fortify themselves in caves and peaks to cut roads, or allied groups who conspired to cut the road between Syria and Iraq, calling that **al-nahīḍah**.

They are fought as described, but fighting them is not like fighting disbelievers, since they are not disbelievers. Their wealth is not taken, except that they are liable for whatever wealth they seized unjustly: it is taken from them in the amount they took, even if the specific taker is unknown; and if the individual is known, the guaranty ultimately rests on him—though the helper and the direct actor are alike in liability as stated earlier. What is taken is returned to the owners; if returning is not possible, it is spent on the Muslims' interests, such as providing for those who fight them and the like.

The objective of fighting them is to gain power over them in order to establish the prescribed punishments and prevent corruption. If one of them is wounded severely, he is not finished off until he dies, unless execution has already become obligatory upon him. If he flees and his harm has ceased, he is not pursued unless he is subject to a ḥadd or we fear his future harm. Whoever is captured has the ḥadd established upon him as upon others.

Some jurists were harsh with them and even viewed their wealth as war spoils to be divided with the khums, but most reject this.

If they join the domain of a rebellious faction that has departed from the Sharīʿah and they aid them against Muslims, then they are fought like them.

As for someone who does not cut the road but takes "protection money" or a levy from travelers—on persons, mounts, loads, and the like—he is a **tax-extorter (makkās)**, and he receives the punishment of the tax-extorters. Jurists differed about whether it is permissible to kill him. He is not a highway robber, for the road is not cut off by him—yet he is among the people of the severest punishment on the Day of Resurrection, to the point that the Prophet ﷺ

said regarding the Ghāmidiyyah woman: “She has repented with a repentance that if the collector of unjust tax had repented with it, he would have been forgiven.”

It is permissible for oppressed people whose wealth is being seized to fight highway robbers, by consensus, and they are not required to pay them anything if fighting is possible. The Prophet ﷺ said:

“Whoever is killed defending his wealth is a martyr; whoever is killed defending his blood is a martyr; whoever is killed defending his religion is a martyr; and whoever is killed defending his honor is a martyr.”

This is what jurists call **al-ṣāʾil**—an aggressor with no valid interpretation and no authority. If he seeks wealth, it is permissible to repel him by whatever means possible; if he cannot be repelled except by fighting, then he is fought; and if one abandons fighting and gives them some wealth, that is permissible.

But if what is sought is honor—such as attempting fornication with one’s close relatives, or seeking to violate a woman or a boy (slave or free) and the like—then one must defend himself with whatever he can, even killing, and it is never permissible to yield. Wealth is different: yielding wealth can be permitted, because giving wealth is permissible, while yielding one’s body to indecency or one’s honor is not.

If the aggressor’s aim is to kill a person, defending oneself is permissible; whether it is obligatory is a disputed issue among scholars in the school of Aḥmad and others.

If the ruler captures highway robbers who have seized wealth, he must extract from them what belongs to people and return it to them, while also establishing the ḥadd upon their bodies—likewise the thief. If they refuse to bring the wealth after it has been established against them, they are punished by imprisonment and beating until they enable its retrieval—by bringing it, authorizing someone to bring it, or informing where it is—just as anyone refusing an obligation is punished. Allah permitted a man to strike his wife if she rebels and withholds the obligatory right until she fulfills it; these are more deserving.

This demand and punishment is the right of the owner of the wealth. If he wishes to gift them the wealth, settle for it, or pardon their punishment regarding the wealth, he may do so—unlike the establishment of the ḥadd upon them, for there is no pardon for that in any case. The ruler has no right to compel the owner to forgo any of his right.

If the wealth has been consumed and destroyed by them or by the thief, it has been said they must compensate the owners as other usurpers do—this is the view of al-Shāfiʿī and Aḥmad—and the debt remains upon them in insolvency until ease. Others say the amputation and compensation are not combined—this is the view of Abū Ḥanīfah. Others say they compensate only in solvency but not insolvency—this is the view of Mālik.

It is not permissible for the ruler to take a fee from the owners of stolen wealth for pursuing highway robbers, establishing prescribed punishments, and retrieving people’s wealth from

them; nor for pursuing thieves—neither for himself nor for the soldiers he dispatches. Rather, pursuing them is a type of jihād in the path of Allah, and soldiers are sent forth for it as they are sent forth for other expeditions—among those campaigns called **al-bīkār**.

Spending on those who fight in this effort comes from the funds from which other fighters are supported. If their allotment or stipend suffices, that is enough; otherwise they are given what completes their sufficiency from public-interest funds and from zakāh funds, for this is "in the path of Allah."

If the travelers being seized include those with zakāh due, like merchants, and the ruler takes the zakāh of their wealth and spends it in the path of Allah—such as supporting those who pursue the bandits—that is permissible.

If the bandits have strong power that requires winning over, and the ruler gives from fay' or public funds or zakāh to some of their chiefs so that he may help bring the rest, or so that he refrains from harm and thereby the rest weaken, and the like—this is permissible, and they are then among those whose hearts are to be reconciled. More than one of the imams, including Aḥmad and others, mentioned similar cases. This is supported by the Qur'an, Sunnah, and the principles of Sharīʿah.

The ruler must not send those unable to resist the bandits, nor those who take money from the victims—merchants or others among travelers—rather he sends strong and trustworthy soldiers; if that is not possible, then the best available.

If some deputy of the ruler or village chief and the like secretly orders the bandits to seize, or does so openly, such that when they seize something he shares with them and protects them, and placates the victims with some of their wealth—or does not placate them—then his crime is greater than the bandit leader's, because this can be repelled without the means needed to repel the bandits. He is treated like the backer and helper: if they killed, he is killed—according to ʿUmar ibn al-Khaṭṭāb and most scholars; if they took wealth, his hand and foot are cut; if they killed and took wealth, he is killed and crucified. A group of scholars says he is to be cut, killed, and crucified; others say the ruler chooses between these.

If he did not authorize them initially but after they were captured he shared in the wealth and suspended some rights and punishments, he is not like those who gave them authorization from the beginning—though his crime remains among the gravest—and he is punished with less than that.

Whoever shelters a highway robber, a thief, a killer, and the like—someone against whom a prescribed punishment or right is due to Allah or to people—and prevents the rightful authority from taking what is due without injustice, is a partner in the crime. Allah and His Messenger have cursed such a person. Muslim narrated that the Prophet ﷺ said: "Allah curses the one who commits an offense, or shelters an offender."

If the shelterer is seized, he is required to bring the offender or reveal his location; if he refuses, he is punished with imprisonment and beating repeatedly until the offender can be

apprehended—just as one who refuses to hand over obligatory wealth is punished. Anything whose presence is obligatory from persons or wealth—whoever prevents its presence is punished.

If a man knows the location of a person sought rightfully, or wealth sought rightfully, even if he did not personally prevent it, then he must inform and guide to it, and it is not permissible to conceal it—this is cooperation upon righteousness and piety, which is obligatory. But if the person or wealth is sought unjustly, it is not permissible to inform; rather it is obligatory to repel the injustice, because aiding the oppressed is obligatory. The Prophet ﷺ said: "Support your brother whether he is an oppressor or oppressed." They said: How do we support him if he is an oppressor? He said: "Prevent him from oppression—that is your support of him."

Likewise, the Prophet ﷺ ordered support of the oppressed among the seven commands.

If the one who knows refuses to inform, he may be punished by imprisonment and the like until he informs, because he refused an obligation that cannot be delegated. But he is not punished for that unless it is known he truly knows.

This is a consistent principle for governors, judges, and others: anyone who refuses a required statement or action. It is not a case of burdening someone with another's sin. Rather, he is punished for his own sin: knowing the location of a wrongdoer whose presence is required to restore rights, or knowing the location of wealth attached to the rights of rightful claimants, then refusing the obligatory support—whether out of partisanship, or hostility to the oppressed, or heedlessness of standing for justice, or cowardice and failure to support Allah's religion.

Such a person deserves punishment by agreement of scholars. If this path is not followed, prescribed punishments are suspended, rights are lost, and the strong devour the weak.

This confusion happens often among tribal and urban leaders when someone seeks their protection, or there is kinship or friendship: they see جاهلية pride and "honor through sin" and reputation among rabble as being to defend and shelter him—even if he is an oppressor—especially if the oppressed is a rival chief. They see handing over the protected person as humiliation. This, in an absolute sense, is pure جاهلية, and among the greatest causes of corruption in religion and worldly life.

The duty toward someone seeking protection is: if he is wronged, one supports him—but he is not proven wronged merely by claiming it. Many complain while they themselves are wrongdoers. Rather, one investigates his case through his opponent and others. If he is an oppressor, he is restrained from oppression gently if possible—by reconciliation or just judgment—or else by force.

If each is both wronging and wronged—like partisans of Qays and Yemen and the like—or both are not wrongdoers due to misunderstanding, interpretation, or error, then one strives to reconcile them or judge between them, as Allah commanded regarding two fighting groups of believers.

The Prophet ﷺ was asked: Is it part of tribalism that a man supports his people upon the truth? He said: “No. Tribalism is that a man supports his people upon falsehood.”

And he said: “The best of you is the one who defends his people so long as he does not sin.”

And he said: “The likeness of one who supports his people upon falsehood is like a camel that falls into a well and drags its tail.”

And he said: “Whoever you hear calling with the slogans of جاهلية, tell him: bite your father’s private part, and do not use euphemisms.”

Everything that departs from the call of Islam and Qur’an—whether lineage, homeland, race, madhhab, or path—is from the slogans of جاهلية. When a Muhājir and an Anṣārī quarreled and each called his group, the Prophet ﷺ said: “With the call of جاهلية while I am among you?” and he became very angry.

Chapter

As for the thief, it is obligatory to cut his right hand by the Qur’an, Sunnah, and consensus. Allah, Exalted is He, said:

“As for the male thief and the female thief, cut off their hands as recompense for what they earned—an exemplary punishment from Allah. And Allah is Mighty, Wise. But whoever repents after his wrongdoing and reforms—then Allah will turn to him in repentance. Indeed Allah is Forgiving, Merciful.”
(Qur’ān 5:38–39)

After the ḥadd is established against him by proof or confession, it is not permissible to delay it—by imprisonment, by ransom money, or otherwise. His hand is cut in sacred times and in other times alike.

Establishing prescribed punishments is an act of worship, like jihād. It should be known that establishing the ḥadd is mercy from Allah to His servants. Therefore the ruler should be firm in establishing it and not be held back by compassion that leads him to suspend Allah’s religion. His intention should be mercy to creation by restraining people from evil, not satisfying rage or seeking dominance over people.

This is like a father disciplining his child: if he refrains due to the mother’s softness, the child corrupts; rather he disciplines him out of mercy and reform—while loving that discipline would not be needed. It is like a physician giving bitter medicine, or cutting away a gangrenous limb, or cupping, or bloodletting, and the like; or like a person drinking bitter medicine and bearing hardship to reach ease.

Thus the prescribed punishments were legislated, and such should be the ruler's intention. If his aim is the welfare of the subjects, preventing wrongdoing, bringing benefit and warding harm, and seeking Allah's Face and obedience, Allah softens hearts for him, eases the means of good for him, and suffices him from needing harsh punishments, and the punished person may even become content when the ḥadd is carried out.

But if his aim is to dominate them, establish his prestige so they magnify him, or to extract wealth from them, the result is reversed against him.

It is narrated that ʿUmar ibn ʿAbd al-ʿAzīz, before becoming caliph, was governor for al-Walīd ibn ʿAbd al-Malik over the city of the Prophet ﷺ, and he governed them well. When al-Ḥajjāj came from Iraq—having inflicted severe torment—he asked the people of Madīnah about ʿUmar: how is his awe among you? They said: we cannot even look at him out of awe. He said: then how is your love for him? They said: he is more beloved to us than our own families. He said: and how is his discipline among you? They said: between three lashes and ten. He said: this is his awe, this is his love, this is his discipline—this is a matter from Heaven.

When the thief's hand is cut, it is cauterized. It is recommended to hang it from his neck. If he steals a second time, his left foot is cut. If he steals a third and fourth time, there are two views from the Companions and those after them:

1. His remaining limbs are cut in the third and fourth—this is the view of Abū Bakr and the school of al-Shāfiʿī, and Aḥmad in one report.

2. He is imprisoned—this is the view of ʿAlī and the Kufans, and the school of Abū Ḥanīfah, and Aḥmad in his other report.

The hand is cut only if he stole the minimum amount (niṣāb): one quarter of a dīnār, or three dirhams according to most scholars of Ḥijāz and the people of ḥadīth, such as Mālik, al-Shāfiʿī, and Aḥmad. Some say: a full dīnār or ten dirhams. Whoever steals at least that amount is cut by agreement.

In the two Ṣaḥīḥs, from Ibn ʿUmar: the Messenger of Allah ﷺ cut in the case of a shield worth three dirhams. In Muslim's wording: he cut the hand of a thief for a shield whose value was three dirhams. The shield (mijnn) is a buckler.

In the two Ṣaḥīḥs, from ʿĀʾishah: the Messenger of Allah ﷺ said: "The hand of the thief is cut for a quarter dīnār and above." In Muslim: "The hand of the thief is not cut except for a quarter dīnār and above." In al-Bukhārī: "Cut for a quarter dīnār and do not cut for what is less than that." At that time a quarter dīnār was three dirhams, and a dīnār was twelve dirhams.

A thief is not deemed a thief for the ḥadd until he takes wealth from a protected place (ḥirz). As for property lost by its owner, or fruit on trees in the open with no guard, or livestock with no shepherd, and the like—there is no amputation, but the taker is disciplined, and double

compensation is imposed upon him as reported in the ḥadīth. Scholars differed about the doubling; among those who held it is Aḥmad and others.

Rāfiʿ ibn Khadīj said: I heard the Messenger of Allah ﷺ say: “No amputation for fruit, nor for palm pith (kathar).” Kathar is the heart of the palm.

And from ʿAmr ibn Shuʿayb, from his father, from his grandfather: a man from Muzaynah asked the Prophet ﷺ about lost camels, lost sheep, produce taken from pasture, and fruit—so he clarified: in some cases there is no liability, in others there is double payment and disciplinary beating, and if taken from the enclosure or the threshing floor and reaches the value of the shield, then amputation applies. This is the wording of al-Nasā’ī.

Likewise the Prophet ﷺ said: “There is no amputation for the looter (muntahib), nor for the snatcher (mukhtalis), nor for the betrayer (khā’in).” The looter is one who takes openly while people watch; the snatcher is one who yanks something quickly so it is noticed immediately. As for the pickpocket who cuts pockets and the like, then the correct view is that he is cut.

Chapter

As for the fornicator:

- If he is **muḥṣan**, he is stoned to death, as the Prophet ﷺ stoned Māʿiz ibn Mālik al-Aslamī, the Ghāmidiyyah woman, the two Jews, and others; and Muslims stoned after him. Scholars differed whether he is lashed one hundred before stoning—two views in the school of Aḥmad and others.

- If he is **not muḥṣan**, he is lashed one hundred lashes by the Book of Allah and exiled for a year by the Sunnah of the Messenger ﷺ—though some scholars do not see exile as obligatory.

The ḥadd is not established unless four witnesses testify, or the offender testifies against himself four times according to many or most scholars; some suffice with one confession. If he confesses then retracts, some say the ḥadd falls, others say it does not.

A **muḥṣan** is one who has had lawful intercourse in a valid marriage (being free and legally accountable), even if only once. If a complete person had intercourse with an incomplete one or vice versa, there is juristic dispute about whether the complete one becomes muḥṣan. Once he has had intercourse once, he becomes muḥṣan and is stoned if he commits zinā—even if at the time of zinā he is not married. Scholars differed whether the spouse must be equal in those qualities, and whether a near-adult (murāhiq) and an adult mutually establish iḥṣān.

As for the People of the Book, most scholars—such as al-Shāfiʿī and Aḥmad—hold they can be muḥṣan as well, because the Prophet ﷺ stoned two Jews at the door of his mosque, and that was the first stoning in Islam.

They also differed regarding a woman found pregnant with no husband or master and who does not claim a plausible doubt: two views with Aḥmad and others. It is said: no ḥadd, because it could be coercion, artificial carrying, or doubtful intercourse. And it is said: she is punished; this is narrated from the Rightly Guided Caliphs and is closer to the principles of the Sharīʿah—because rare possibilities are not considered, just like the possibility that she lies or the witnesses lie.

As for **liwāṭ (male-male anal intercourse)**: some scholars say its ḥadd is the same as the ḥadd of zinā; others said less. But the sound view upon which the Companions agreed is that both the top and the bottom are executed, whether muḥṣan or not.

The compilers of Sunan narrate from Ibn ʿAbbās that the Prophet ﷺ said: “Whoever you find doing the action of the people of Lūṭ, then kill the doer and the one it is done to.” Abū Dāwūd narrates from Ibn ʿAbbās about an unmarried man found upon liwāṭ: he is stoned. Something similar is narrated from ʿAlī.

The Companions did not differ about executing him, but they differed in the method: it is narrated that Abū Bakr ordered burning; from others, execution; from some, collapsing a wall upon him; from some, confining them in the filthiest place until they die; and from some, raising him on the highest wall of the town and throwing him down, then pelting with stones—like what Allah did to the people of Lūṭ. This is narrated from Ibn ʿAbbās. Another narration from him is stoning. This is the view of most of the early scholars, and the school of the people of Madīnah and Syria, and most jurists of ḥadīth—like Aḥmad in his strongest report and al-Shāfiʿī in one of his views. Both are stoned whether free or enslaved, or one owned the other, so long as they are adult. If one is not adult, he is punished with less than execution, and stoning applies only to an adult.

Chapter

As for the **ḥadd of drinking (al-shurb)**, it is established by the Sunnah of the Messenger of Allah ﷺ and by the consensus of the Muslims. The compilers of the Sunan narrated from the Prophet ﷺ through multiple routes that he said: **“Whoever drinks wine, flog him; then if he drinks, flog him; then if he drinks, flog him; then if he drinks the fourth time, kill him.”**

Most scholars hold that the command to kill is **abrogated**; it was also said it remains operative; and it may also be said it is a discretionary punishment (taʿzīr) carried out by the ruler when needed.

It is established that the Prophet ﷺ struck the drinker of wine with palm branches and sandals **forty** times; Abū Bakr struck **forty**; and ʿUmar, in his caliphate, struck **eighty**. ʿAlī (may Allah be pleased with him) would sometimes strike forty and sometimes eighty.

Some scholars say the obligatory number is **eighty**; others say the obligatory number is **forty**, and the increase is for the ruler to apply when needed—if people become accustomed to drinking, or if the drinker is someone who will not be deterred without it, and the like.

But when drinkers are few and the case is near and limited, **forty** suffices, and this is the stronger of the two views: it is the view of al-Shāfiʿī and Aḥmad in one report.

ʿUmar (may Allah be pleased with him), when drinking became widespread, added **exile** and **shaving the head** as an intensified deterrent. So if the ruler disciplines the drinker along with the forty by cutting off his stipend or removing him from office, that is good. ʿUmar ibn al-Khaṭṭāb (may Allah be pleased with him) was informed about one of his deputies that he recited lines of poetry about wine, so he removed him from office.

The wine which Allah and His Messenger prohibited, and which the Prophet ﷺ ordered the drinker to be flogged for, is **every intoxicating beverage**, from whatever source it comes: whether from fruits like grapes, fresh dates, raisins, figs; or from grains like wheat and barley; or from liquids like honey; or even from animals like mare's milk. Indeed when Allah revealed to His Prophet ﷺ the prohibition of wine, there was not in Madīnah any grape-wine at all, because there were no grapevines in Madīnah; rather it used to be brought from Syria. So most of their drink was date-based nabīdh. The Sunnah is mass-transmitted from the Prophet ﷺ, his successors, and his Companions that he forbade every intoxicant and declared it to be wine.

They used to drink **sweet nabīdh**, which is that dates or raisins are thrown into water—(and nabdh means "to throw")—to sweeten the water, especially because much of the water of the Ḥijāz is salty. This nabīdh is lawful by consensus because it does not intoxicate, just as grape juice is lawful before it becomes intoxicating.

The Prophet ﷺ had forbidden them from preparing this nabīdh in certain vessels: wooden containers, earthenware jars, gourds, and pitch-coated containers; and he ordered them to prepare it in containers whose mouths are tied with straps, because fermentation can creep into the drink in a hidden way without a person noticing—so a person might drink something that has begun to ferment and intoxicate without realizing. If it is in a tied waterskin, the vessel bursts when the drink boils, so a person does not fall into the prohibited; whereas those other vessels do not burst.

Then it is narrated that he later permitted preparing it in vessels, saying: **"I had forbidden you from preparing nabīdh in vessels—so prepare it, but do not drink any intoxicant."** The Companions and later scholars differed: some did not receive the abrogation or did not confirm it, so they continued to forbid preparing in those vessels; others held it established and abrogating, so they permitted preparing in vessels. Then some jurists heard that certain Companions drank nabīdh, assumed it meant the intoxicating kind, and thus allowed certain

drinks not made from grapes and dates; and they relaxed regarding cooked nabīdh of dates and raisins as long as the drinker did not become intoxicated.

But the correct position held by the overwhelming majority of Muslims is that **every intoxicant is wine**, and its drinker is flogged—even if he drank a single drop for medical treatment or other than medical treatment. For the Prophet ﷺ was asked about wine: is it used as medicine? He said: **"It is a disease, not a cure."** And: **"Allah has not placed the healing of my community in what He has forbidden to them."**

The ḥadd is obligatory when proof is established or the drinker confesses.

If the smell of wine is found on him, or he is seen vomiting it and the like, it has been said the ḥadd is not applied due to possibilities: that he drank something not wine, or drank it not knowing, or was coerced, and so on. It has also been said: he is flogged when it is known that it was intoxicating. This is what is transmitted from the Rightly Guided Caliphs and other Companions—such as ʿUthmān, ʿAlī, and Ibn Masʿūd (may Allah be pleased with them)—and the Sunnah of the Messenger ﷺ indicates it, and it is what sets people right; it is the madhhab of Mālik and Aḥmad in most of their explicit statements, and others.

Hashīsh made from cannabis leaves is prohibited, and its user is flogged as the drinker of wine is flogged. It is more evil than wine in that it corrupts the mind and temperament until a man develops effeminacy, cuckoldry, and other corruptions. Wine is more evil in that it leads to quarrelling and fighting. Both turn one away from remembrance of Allah and from prayer.

Some later jurists hesitated regarding its ḥadd and held that its eater is disciplined with less than the ḥadd, thinking it alters the mind without exhilaration, like anesthetics such as banj, and they did not find explicit speech from earlier scholars on it. But it is not as they thought: its eaters become exhilarated by it and crave it like wine and more; it turns its eater away from remembrance of Allah and prayer when he takes much of it, along with other corruptions: cuckoldry, effeminacy, corruption of temperament and mind, and more.

But because it is a solid eaten substance, not a beverage, jurists disputed its impurity in three views in the school of Aḥmad and others: it was said it is impure like consumed wine—this is the correct analogy; and it was said it is not impure due to being solid; and it was said there is a distinction between its solid and liquid forms. In any case, it enters under what Allah and His Messenger prohibited of wine and intoxicants in wording or meaning.

Abū Mūsā al-Ashʿarī said: O Messenger of Allah, give us legal opinion about two drinks we used to make in Yemen: **al-bitu**ʿ—made from honey and steeped until it strengthens—and **al-mizr**—made from corn and barley and steeped until it strengthens. The Messenger of Allah ﷺ had been given concise comprehensive speech in its conclusions, so he said: **"Every intoxicant is unlawful."** Agreed upon in the two Ṣaḥīḥs.

And from al-Nuʿmān ibn Bashīr: the Prophet ﷺ said: **"Indeed from wheat there is wine, and from barley wine, and from raisins wine, and from dates wine, and from honey wine—and I forbid every intoxicant."** Abū Dāwūd and others narrated it. But in the two Ṣaḥīḥs it is

narrated from ʿUmar as a mawqūf report that he addressed the people from the pulpit of the Messenger of Allah ﷺ saying: **“Wine is what covers the intellect.”**

From Ibn ʿUmar: the Prophet ﷺ said: **“Every intoxicant is wine, and every intoxicant is unlawful.”** In another wording: **“Every intoxicant is wine, and every wine is unlawful.”** Both are in Ṣaḥīḥ Muslim.

From ʿĀʾishah: the Prophet ﷺ said: **“Every intoxicant is unlawful, and whatever intoxicates in a farq, then a palmful of it is unlawful.”** Al-Tirmidhī said: it is a ḥasan ḥadīth.

The Sunan compilers also narrated from the Prophet ﷺ by multiple routes: **“Whatever intoxicates in large quantity, then its small quantity is unlawful.”** The ḥadīth masters authenticated it.

And from Jābir: a man asked the Prophet ﷺ about a drink made from corn in their land called **al-mizr**. He said: **“Is it intoxicating?”** He said: yes. He said: **“Every intoxicant is unlawful. Allah has pledged that whoever drinks intoxicants will be given to drink from ṭīnat al-khabāl.”** They asked: what is ṭīnat al-khabāl? He said: **“The sweat of the people of the Fire—or the discharge of the people of the Fire.”** Muslim narrated it in his Ṣaḥīḥ.

And from Ibn ʿAbbās: the Prophet ﷺ said: **“Every fermented (mukhammar) substance is wine, and every intoxicant is unlawful.”** Abū Dāwūd narrated it.

The ḥadīths in this chapter are many and widely transmitted. The Messenger ﷺ gathered—by what he was given of concise comprehensive speech—everything that veils the intellect and intoxicates, and he did not distinguish between one type and another. Nor does it matter whether it is eaten or drunk: wine may be used in foods, and hashīsh may be dissolved in water and drunk. So wine is drunk and eaten, and hashīsh is eaten and drunk, and all of it is unlawful. The earlier scholars did not speak about it specifically only because its consumption arose relatively late, near the end of the sixth century or around that time, just as new intoxicating drinks arose after the Prophet ﷺ—yet all are included in the comprehensive words of the Book and Sunnah.

Chapter

Among the prescribed punishments established by the Book and Sunnah and agreed upon by the Muslims is the **ḥadd of slander (qadhf)**. If a man accuses a muḥṣan of zinā or liwāṭ, the ḥadd becomes obligatory: **eighty lashes**.

The muḥṣan here means: the **free, chaste** person. In the chapter of the ḥadd of zinā, the muḥṣan is the one who has had complete intercourse in a complete valid marriage.

Chapter

As for sins for which there is **no fixed prescribed ḥadd** and **no expiation**, such as: a man kissing a boy or a non-maḥram woman; or touching without intercourse; or eating what is unlawful like blood and carrion; or insulting people with accusations other than zinā; or stealing from other than a secure place, or stealing something trivial; or betraying a trust—such as custodians of public funds, endowments, orphans' wealth, and the like; and likewise agents and partners when they betray; or cheating in transactions like those who cheat in food and clothing; or giving short measure and weight; or bearing false witness or coaching false testimony; or taking bribes in judgment; or judging by other than what Allah revealed; or oppressing the subjects; or calling with the slogans of jāhiliyyah such as "O Qays, O Yemen"; or answering the call of jāhiliyyah—along with other kinds of prohibitions: these are punished by **taʿzīr**, deterrence, and discipline, as the ruler sees fit—according to how widespread the sin is among people and how rare it is: if it is widespread, the punishment is increased; unlike when it is rare.

And according to the condition of the sinner: if he is persistent in immorality, his punishment is increased, unlike one who rarely does it.

And according to how great or small the sin is: one who targets people's women and children is punished more severely than one who only targeted one woman or one boy.

There is **no minimum limit** for taʿzīr: it includes anything that causes pain to a person by speech or action, or by withholding speech or withholding action. A man may be disciplined by admonishing him, rebuking him, and speaking harshly to him. He may be disciplined by boycotting him and not greeting him until he repents if that is the beneficial course—just as the Prophet ﷺ and his Companions boycotted the three who stayed behind.

He may be disciplined by removal from office, as the Prophet ﷺ and his Companions used to discipline by that. He may be disciplined by not employing him in the ranks of the Muslim army, as in the case of the soldier who flees the battlefield, for fleeing is among the major sins; cutting off his stipend is a type of discipline. Likewise, if an emir commits something considered grave, removing him from command is discipline.

He may be disciplined by imprisonment. He may be disciplined by beating. He may be disciplined by blackening his face and mounting him on a mount backwards, as is narrated from ʿUmar ibn al-Khaṭṭāb that he ordered that regarding the false witness: because the liar's face is black, so his face is blackened; and because he inverted the truth, so his riding is inverted.

As for the maximum: it was said taʿzīr is not increased beyond ten lashes; and many scholars said it does not reach the level of the fixed ḥudūd.

They then differ in two views: some say it does not reach the lowest ḥadd—so for the free man it does not reach the lowest ḥadd of the free, which is forty or eighty; and for the slave it does not reach the lowest ḥadd of the slave, which is twenty or forty. And it was said: rather, it does not reach the ḥadd of the slave in either case.

Others say it does not reach the ḥadd of the same category of offense even if it exceeds another category: so the one who takes wealth from outside a secure place does not reach amputation of the hand, even if he is beaten more than the ḥadd of the slanderer; and one who commits something less than zinā does not receive the ḥadd of zinā, even if his beating exceeds the ḥadd of the slanderer.

It is narrated from ʿUmar ibn al-Khaṭṭāb that a man engraved something on a ring and used it to take from the public treasury, so ʿUmar ordered him beaten one hundred, then the next day one hundred, then the third day one hundred.

It is narrated from the Rightly Guided Caliphs regarding a man and a woman found under one blanket: that they are beaten one hundred.

And it is narrated from the Prophet ﷺ regarding the one who comes to his wife's slave-girl: "If she made her lawful for him, he is flogged one hundred; and if she did not make her lawful for him, he is stoned."

This view is the most apparent of the views. These views are in the school of Aḥmad and others; the other two are in the school of al-Shāfiʿī and others. As for Mālik and others, it is transmitted from him that some crimes may be punished up to execution. Some companions of Aḥmad agreed in cases like the Muslim spy who spies for the enemy against Muslims: Aḥmad hesitated about killing him; Mālik and some Ḥanbalīs like Ibn ʿAqīl permitted killing him; Abū Ḥanīfah, al-Shāfiʿī, and some Ḥanbalīs like al-Qāḍī Abū Yaʿlā forbade it.

A group among the companions of al-Shāfiʿī and Aḥmad and others permitted killing the caller to innovations that oppose the Book and Sunnah; likewise many Mālikīs. They said: Mālik and others only permitted killing the Qadarīs due to corruption on earth, not due to apostasy.

Likewise it is said regarding killing the sorcerer: most scholars say he is killed. Al-Tirmidhī narrated from Jundub, mawqūf and marfūʿ, that: **"The ḥadd of the sorcerer is a strike with the sword."** And from ʿUmar, ʿUthmān, Ḥafṣah, ʿAbdullāh ibn ʿUmar and others among the Companions: they executed him. Some said: for disbelief; some said: for corruption on earth; but the majority of these regard it as a prescribed killing (ḥadd).

Abū Ḥanīfah also allows taʿzīr by killing in repeated crimes where the offense-type entails killing—like one who repeatedly commits liwāṭ, or repeatedly assassinating people to take wealth, and the like.

It may be argued that when the corrupter's harm is not stopped except by killing, he is killed, based on what Muslim narrated in his Ṣaḥīḥ from ʿArfajah al-Ashjaʿī that he heard the Messenger of Allah ﷺ say: **"Whoever comes to you while your affair is united under one man, intending to split your staff and divide your community—kill him."** In another wording: "There will be disturbances and disturbances. Whoever intends to divide the affair of this ummah while it is united, strike him with the sword, whoever he may be."

Likewise, this may be said regarding the command to kill the drinker of wine the fourth time, supported by what Aḥmad narrated in the Musnad from Daylam al-Ḥimyarī: he asked the Prophet ﷺ saying: O Messenger of Allah, we are in a land where we do heavy work; we make a drink from wheat by which we strengthen ourselves for our work and against the cold of our land. He said: **"Does it intoxicate?"** He said: yes. He said: **"Avoid it."** He said: the people will not abandon it. He said: **"If they do not abandon it, then kill them."**

That is because the corrupter is like the violent aggressor: if the aggressor cannot be repelled except by killing, he is killed.

The sum of the matter is that punishment is of two kinds:

1. Punishment for a past sin as recompense and deterrence: like flogging the drinker and the slanderer; cutting the highway robber and the thief; and likewise disciplining one who steals below the niṣāb or outside a secure place; and disciplining the betrayer, falsifier of testimony, falsifier of seals/marks, and the like.

2. Punishment to compel fulfillment of an obligation or abandonment of a prohibition in the future: like asking the apostate to repent until he returns to Islam—if he does, then good; if not, he is killed; and like punishing the one who abandons prayer, zakāh, and the rights of people until he performs them. Taʿzīr in this second type is more fitting than in the first type; therefore it is permissible to strike this person repeatedly time after time until he performs the obligatory prayer.

The ḥadīth in the two Ṣaḥīḥs from the Prophet ﷺ: **"No one is to be flogged above ten lashes except in one of the ḥudūd of Allah"**—a group of scholars explained "ḥudūd of Allah" here as meaning what is prohibited for the right of Allah, because in the language of the Book and Sunnah "ḥudūd" can mean the boundary between lawful and unlawful: it is said regarding the boundary of the lawful: "Those are the limits of Allah, so do not transgress them," and regarding the boundary of the unlawful: "Those are the limits of Allah, so do not approach them." As for naming the fixed, measured punishment itself a "ḥadd," that is a later technical usage.

The intent of the ḥadīth is: whoever strikes for a personal right—like a man striking his wife for rebelliousness—does not increase beyond ten lashes.

Chapter

The flogging that the Sharīʿah has brought is **moderate flogging with a whip**; for the best of matters are their middle course. ʿAlī (may Allah be pleased with him) said: *"A strike between two strikes, and a whip between two whips."*

The flogging is not to be done with **sticks** or **clubs**, nor is it sufficient to do it with the **durrāh** (a light rod); rather the durrāh is used in **taʿzīr**. As for the fixed ḥudūd, they must be carried out

with the whip. ʿUmar ibn al-Khaṭṭāb (may Allah be pleased with him) used to discipline with the durrāh, but when the ḥudūd came, he would call for the whip.

His clothes are not stripped off entirely; rather, what is removed from him is whatever prevents the pain of the blows—such as padding, fur and the like. He is not tied unless there is a need for that. And his face is not struck, for the Prophet ﷺ said: **"If one of you fights, let him avoid the face."** Nor are the lethal areas struck, for the goal is to discipline him, not to kill him. Each limb is given its share of the blows: such as the back, the shoulders, the thighs, and the like.

Chapter

The punishments that the Sharīʿah has brought for the one who disobeys Allah and His Messenger are of two types:

1. The punishment of one who is **within reach**, whether an individual or a number, as has preceded.

2. The punishment of a **recalcitrant group** that cannot be subdued except by fighting. The foundation of this is the jihād against the disbelievers who are enemies of the religion of Allah and His Messenger. So whoever the call of the Messenger ﷺ reaches—calling to the religion Allah sent him with—and he does not respond, then fighting him becomes obligatory until there is no fitnah and the religion is wholly for Allah.

When Allah sent His Prophet ﷺ and commanded him to call creation to His religion, He did not permit him to kill anyone for that nor to fight, until he migrated to Madīnah. Then He permitted him and the Muslims by His saying: **"Permission is granted to those who are fought because they were wronged… [up to] …And Allah will surely help those who help Him… [up to] …Those who, if We establish them in the land, establish prayer and give zakāh and enjoin what is right and forbid what is wrong…"** (al-Ḥajj 39–41).

Then after that He made fighting obligatory upon them by His saying: **"Fighting has been prescribed for you, though it is hateful to you…"** (al-Baqarah 216).

He further confirmed the obligation and magnified the matter of jihād throughout the Madinan sūrahs, censured those who abandon it, and described them with hypocrisy and sickness of hearts. He said: **"Say: if your fathers… and wealth you have acquired… are more beloved to you than Allah and His Messenger and jihād in His path, then wait…"** (al-Tawbah 24), and He said: **"The believers are only those who believe in Allah and His Messenger, then do not doubt, and strive with their wealth and their selves…"** (al-Ḥujurāt 15), and He said: **"…you see those in whose hearts is disease looking at you like the gaze of one fainting at death…"** (Muḥammad 20), and this is frequent in the Qur'ān.

Likewise He magnified it and magnified its people, such as His saying: **“O you who believe, shall I guide you to a trade that will save you from a painful punishment… you believe in Allah and His Messenger and strive…”** (al-Ṣaff 10–13), and His saying: **“…are the providing of water to pilgrims and the maintenance of al-Masjid al-Ḥarām equal to one who believes… and strives in the path of Allah…”** (al-Tawbah 19–22), and His saying: **“…Allah will bring a people He loves and they love Him… they strive in the path of Allah and do not fear the blame of any blamer…”** (al-Mā’idah 54), and His saying: **“…they are not afflicted by thirst nor fatigue nor hunger in the path of Allah… except that it is written for them…”** (al-Tawbah 120–121). So He mentioned what is generated from their deeds and what they directly undertake.

The command for jihād and the mention of its virtues in the Book and Sunnah are too many to be encompassed; therefore it is the best voluntary deed a person can do, and by agreement of the scholars it is better than ḥajj and ʿumrah, and better than voluntary prayer and voluntary fasting, as the Book and Sunnah indicate. The Prophet ﷺ said: **“The head of the affair is Islam, its pillar is prayer, and its peak is jihād in the path of Allah.”**

And he ﷺ said: **“In Paradise there are one hundred درجات; between each two درجات is like what is between the heaven and the earth; Allah prepared them for the mujahidīn in His path.”** Agreed upon.

And he ﷺ said: **“Whoever’s feet become dusty in the path of Allah, Allah forbids him to the Fire.”** al-Bukhārī narrated it.

And he ﷺ said: **“Ribāṭ for a day and a night is better than fasting a month and standing it in prayer; and if he dies, his deeds continue to run for him… and he is protected from the trial.”** Muslim narrated it.

And in the Sunan: **“Ribāṭ for a day in the path of Allah is better than a thousand days in anything else besides it…”**

And he ﷺ said: **“Two eyes will not be touched by the Fire: an eye that wept from fear of Allah, and an eye that spent the night guarding in the path of Allah.”** al-Tirmidhī said: ḥasan.

And in Musnad Aḥmad: **“Guarding one night in the path of Allah is better than a thousand nights whose night is spent in prayer and whose day is spent fasting.”**

And in the two Ṣaḥīḥs: a man said: O Messenger of Allah, tell me of something that equals jihād in the path of Allah. He said: **“You cannot.”** He said: then tell me of it. He said: **“Can you, when the mujahid goes out, fast without breaking and stand without ceasing?”** He said: no. He said: **“That is what would equal jihād.”**

And in the Sunan: **“For every nation there is a السياحة, and the سياحة of my nation is jihād in the path of Allah.”**

This chapter is vast; nothing like what has been transmitted about it has been transmitted regarding the rewards and virtues of deeds. This is clear by reflection: for the benefit of jihād is general—for the doer and for others—in religion and worldly life. It contains all types of inward and outward worship: love of Allah, sincerity to Him, reliance upon Him, giving one's self and wealth to Him, patience and asceticism, remembrance of Allah, and all types of deeds—such as no other deed contains.

And the one who undertakes it—whether an individual or the community—is always between one of the two excellent outcomes: either victory and conquest, or martyrdom and Paradise.

Then people must have a life and a death; by it their life and their death are used in the greatest happiness of this world and the next. In abandoning it is the loss of the two happinesses or their diminution. Many people desire hard deeds in religion and worldly life with little benefit, while jihād is more beneficial in both than every hard deed. And some desire ease and comfort until death meets them; but the death of the martyr is easier than every death, and it is the best of deaths.

Since the foundation of the legislated fighting—namely jihād—and its purpose is that the religion be wholly Allah's and that the word of Allah be the highest: whoever prevents this is fought by agreement of the Muslims.

As for those who are not from the people of resistance and fighting—such as women, children, monks, the very elderly, the blind, the chronically infirm and the like—then they are not killed according to the majority of scholars unless they fight by speech or action. Though some held the permissibility of killing all merely due to disbelief except women and children, considering them property for the Muslims, the first view is correct: fighting is against those who fight us when we seek to manifest the religion of Allah, as Allah said: **"Fight in the path of Allah those who fight you, but do not transgress…"** (al-Baqarah 190).

In the Sunan: the Prophet ﷺ passed by a woman killed in one of his campaigns, and people were standing over her, so he said: **"This one was not one who would fight."** And he said to one of them: **"Go to Khālid and tell him: do not kill offspring, nor an ʿasīf,"** meaning a hired worker.

And it is narrated in the Sunan that he ﷺ would say: **"Do not kill a frail old man, nor a small child, nor a woman."**

That is because Allah permitted of killing souls only what is needed for the rectification of creation, as He said: **"Fitnah is worse than killing."** (al-Baqarah 191) Meaning: killing contains evil and corruption, but the fitnah of the disbelievers contains evil and corruption greater than it.

So whoever does not prevent the Muslims from establishing the religion of Allah, the harm of his disbelief is only upon himself. Hence the jurists said: the one who calls to innovations opposing the Book and Sunnah is punished with what the silent one is not punished with.

And it is narrated: **“When a sin is concealed, it harms only its doer; but when it becomes open and is not condemned, it harms the public.”**

Therefore the Sharīʿah made fighting the disbelievers obligatory, but did not make killing those who are already in hand obligatory. Rather, if a man from them is captured—whether in battle or outside battle, such as if a ship casts him to us, or he loses the road, or he is taken by a ruse—then the ruler does with him what is most beneficial: killing him, enslaving him, showing him favor, or ransoming him with wealth or a person, according to most jurists, as the Book and Sunnah indicate—though some jurists held that favor and ransom are abrogated.

As for the People of the Book and the Magians, they are fought until they embrace Islam or pay the jizyah with their hand while humbled. As for others, jurists differed about taking jizyah from them, though most do not take it from the Arabs.

Any group that is recalcitrant, ascribes itself to Islam, yet refuses some of its manifest and mass-transmitted obligations, must be fought by agreement of the Muslims until the religion is wholly for Allah—just as Abū Bakr al-Ṣiddīq and the Companions fought those who withheld zakāh. Some Companions had initially hesitated, then they agreed, until ʿUmar said to Abū Bakr: how do you fight the people when the Messenger of Allah ﷺ said: **“I have been commanded to fight the people until they testify that there is no god but Allah and that Muḥammad is the Messenger of Allah; if they say it, their blood and wealth are protected from me except by its right, and their reckoning is with Allah.”** Abū Bakr said: zakāh is among its right. By Allah, if they withhold from me a young she-goat they used to give to the Messenger of Allah ﷺ, I will fight them for withholding it. ʿUmar said: it was only that I saw that Allah had opened Abū Bakr’s chest to fighting, so I knew it was the truth.

It is also established from the Prophet ﷺ through many routes that he commanded fighting the Khawārij. In the two Ṣaḥīḥs, from ʿAlī ibn Abī Ṭālib: he heard the Messenger of Allah ﷺ say: **“A people will emerge at the end of time—young in age, foolish in minds… they recite the Qur’ān but it does not go beyond their throats; they pass out of the religion as an arrow passes out of the prey; wherever you meet them, kill them, for in killing them there is reward on the Day of Resurrection.”**

In a narration of مسلم: **“A people from my ummah will emerge… they recite the Qur’ān… their prayer does not go beyond their collarbones… if the army that meets them knew what is decreed for them on the tongue of their Prophet, they would rely upon it and cease from [other] deeds.”**

And from Abū Saʿīd: **“They kill the people of Islam and leave the idolaters; if I were to reach them, I would kill them like the killing of ʿĀd.”** Agreed upon.

And in Muslim: **“My ummah will split into two factions, and an outlying faction will emerge between them; the nearer of the two factions to the truth will kill them.”**

Those were the ones whom the Commander of the Believers ʿAlī fought when the split occurred between the people of Iraq and al-Shām. They were called al-Ḥarūriyyah. The Prophet ﷺ

clarified that both factions were from his ummah, that the companions of ʿAlī were nearer to the truth, and he only urged fighting those marauders who exited Islam, left the جماعة, and deemed the blood and wealth of the Muslims lawful.

It is established by the Book, Sunnah, and consensus that whoever exits from the Sharīʿah of Islam is fought even if he utters the two testimonies.

Jurists differed about a recalcitrant group: if they abandon a confirmed Sunnah like the two ركعات before Fajr—may they be fought? There are two views.

As for the manifest, widespread obligations and prohibitions, they are fought over by agreement, until they commit to establish the five prayers, give zakāh, fast Ramaḍān, perform ḥajj, and commit to abandoning the forbidden: marrying the prohibited, consuming filthy things, aggressing against Muslims in lives and wealth, and the like.

Fighting such people becomes obligatory initially after the call of the Prophet ﷺ reaches them concerning what they are fought over. If they initiate fighting against the Muslims, then fighting them becomes even more emphasized, as we have mentioned regarding fighting the recalcitrant aggressors such as highway robbers, and even more so.

The obligatory jihād against disbelievers and against those refusing some of the obligations—like those withholding zakāh and the Khawārij and the like—is obligatory both as initiation and as defense. If it is initiation, it is a collective obligation: when those sufficient undertake it, the obligation falls from the rest, and the merit is for those who undertake it, as Allah said: **“Not equal are those who sit back from among the believers… and those who strive in the path of Allah…”** (al-Nisā’ 95).

Chapter

But if the enemy intends an assault upon the Muslims, then repelling him becomes **obligatory** upon all those targeted, and upon those not directly targeted as well—so as to aid them—as Allah تعالى said: **“And if they seek your help in the matter of religion, then upon you is (the duty of) help…”** (al-Anfāl: 72). Likewise, the Prophet ﷺ commanded supporting the Muslim; and it makes no difference whether the man is among the paid fighters or not.

This becomes obligatory according to ability upon everyone—by his person and his wealth—whether few or many, on foot or mounted. Thus, when the enemy came against the Muslims in the year of the Trench (al-Khandaq), Allah did not permit anyone to stay behind as He permits in initiating jihād by going out to seek the enemy—wherein people are divided into those who remain and those who go forth. Rather, He censured those who sought permission from the Prophet ﷺ, saying: **“And they say: Our houses are exposed, while they were not exposed; they only intended to flee.”** (al-Aḥzāb: 13).

So this is defense of religion, sanctity, and lives: it is fighting of necessity. That other is fighting of choice—aimed at increase in religion, elevating it, and intimidating the enemy—such as the expedition of Tabūk and the like. This type of punishment is for the recalcitrant groups.

As for those who are not recalcitrant from the people of the lands of Islam and the like, then they must be bound to the obligations that are the pillars of Islam—its five foundations—and other than them, such as fulfilling trusts and honoring covenants in dealings, and other than that.

So whoever does not pray among all people—men and women—he is commanded to pray. If he refuses, he is punished until he prays, by consensus of the scholars. Most of them obligate his killing if he does not pray: he is asked to repent; if he prays, otherwise he is killed. Is he killed as a kāfir, or as an apostate, or as a sinful Muslim? There are two well-known views in the school of Aḥmad and others, and what is transmitted from most of the Salaf indicates his disbelief—this is with his acknowledging the obligation. As for the one who denies the obligation, he is a disbeliever by agreement.

Rather, guardians must command the child to pray when he reaches seven, and strike him for it at ten, as the Prophet ﷺ commanded, saying: **"Command them to pray at seven, and strike them for leaving it at ten, and separate them in beds."** And likewise whatever the prayer requires of obligatory purification and the like.

And from the completion of that is: attending to the mosques of the Muslims and their imams, and commanding them to lead the people in the prayer of the Messenger of Allah ﷺ, as he said: **"Pray as you have seen me pray."** Al-Bukhārī narrated it.

And he once prayed with his Companions at the edge of the pulpit, and said: **"I only did this so that you may follow me and so that you may learn my prayer."**

And it is upon the imam of the people in prayer and otherwise to look after them, so that they do not miss what relates to his action from the perfection of their religion. Rather, the imam of prayer must lead them in a complete prayer and not restrict himself to what a lone individual is permitted to restrict himself to from the minimum of validity—except due to an excuse.

Likewise is their imam in ḥajj, and likewise their commander in war. Do you not see that the agent and the guardian in buying and selling must act for his principal and ward in the most beneficial way regarding their wealth, while in his own wealth he may neglect himself as he wishes? The matter of religion is more important, and the jurists have mentioned this meaning.

Whenever the rulers are concerned with rectifying the religion of the people, both groups—ruler and ruled—are rectified in religion and worldly life; otherwise matters become disturbed upon them. The pivot of all of that is: good intention toward the subjects, sincerity that the religion be wholly for Allah, and reliance upon Him. For sincerity and reliance are the sum-total of rectification for the elite and the generality—just as we are commanded to say in our prayer: **"You alone we worship, and You alone we ask for help."** (al-Fātiḥah: 5). It has been said that these two words gather the meanings of the books sent down from heaven.

And it is narrated that the Prophet ﷺ was once in one of his campaigns and said: **“Mālik Yawm al-Dīn—iyyāka naʿbudu wa iyyāka nastaʿīn,”** and heads began to fall from shoulders.

And he mentioned that in more than one place in His Book, such as His saying: **“So worship Him and rely upon Him.”** (Hūd: 123), and His saying: **“Upon Him I have relied, and to Him I turn.”** (Hūd: 88). And the Prophet ﷺ, when he slaughtered his sacrifice, would say: **“O Allah, from You and to You…”**

And the greatest help to the ruler in particular and to others in general is three matters:

1. Sincerity to Allah and reliance upon Him through supplication and otherwise; and the foundation of that is maintaining the prayers with heart and body.

2. Doing good to creation by benefit and wealth—that is zakāh.

3. Patience over the harm of creation and other calamities; hence Allah often combines prayer and patience, such as His saying in two places: **“Seek help through patience and prayer.”** (al-Baqarah: 45, 153), and such as His saying: **“Establish prayer at the two ends of the day and at the approach of the night. Indeed, good deeds erase bad deeds…”** (Hūd: 114–115), and His saying: **“Be patient over what they say…”** (Qāf: 39), and His saying: **“We certainly know that your breast is constrained by what they say; so glorify the praise of your Lord and be among those who prostrate.”** (al-Ḥijr: 97–98).

As for His pairing of prayer and zakāh in the Qur’ān, it is very frequent. So establishing prayer, zakāh, and patience rectifies the condition of the shepherd and the flock—when a person knows what falls under these comprehensive names: such as what falls under “prayer” of remembrance of Allah, supplication, recitation of His Book, sincerity to Him, and reliance upon Him; and what falls under “zakāh” of beneficence to creation by wealth and benefit, such as supporting the oppressed, relieving the distressed, and fulfilling the need of the needy. In the two Ṣaḥīḥs from the Prophet ﷺ: **“Every act of goodness is charity.”**

And it includes every kindness—even by an open face and a good word. In the two Ṣaḥīḥs from ʿAdī ibn Ḥātim: the Messenger of Allah ﷺ said: **“There is none of you except that his Lord will speak to him—there is no veil between him and Him and no interpreter… so whoever among you can protect himself from the Fire even with half a date, let him do so; and if he cannot, then with a good word.”**

And in the Sunan he ﷺ said: **“Do not belittle any good deed—even if you meet your brother with a cheerful face, or pour from your bucket into the vessel of the one seeking water.”**

And he ﷺ said: **“The heaviest thing placed on the scale is good character.”**

And it is narrated from him that he said to Umm Salamah: **“O Umm Salamah, good character has taken away the best of this world and the next.”**

And in patience is: bearing harm, restraining anger, pardoning people, opposing desire, and leaving insolence and vanity—for patience in prosperity is harder than patience in adversity, as Allah تعالى said: **“And if We let man taste mercy from Us, then We withdraw it from him… [up to] …except those who are patient and do righteous deeds…”** (Hūd: 9–11), and He said to His Prophet ﷺ: **“Take what is given freely, enjoin what is right, and turn away from the ignorant.”** (al-Aʿrāf: 199), and He said: **“…those who spend in ease and hardship, and those who restrain anger and pardon people…”** (Āl ʿImrān: 133–134), and He said: **“Repel (evil) with that which is better… and none is granted it except those who are patient…”** (Fuṣṣilat: 34–36), and He said: **“And the recompense of an evil deed is an evil like it; but whoever pardons and makes reconciliation—his reward is with Allah…”** (al-Shūrā: 40). Al-Ḥasan al-Baṣrī said: when it is the Day of Resurrection, a caller will call from the sides of the Throne: let whoever’s reward is upon Allah stand—none will stand except the one who pardoned and reconciled.

Good intention toward the subjects and beneficence to them is not that he does what they desire and leaves what they dislike. Allah تعالى said: **“And if you obeyed their desires in most matters, you would surely be in hardship.”** (al-Mu’minūn: 71), and He said to the Companions: **“And know that among you is the Messenger of Allah; if he were to obey you in much of the matter, you would be in hardship…”** (al-Ḥujurāt: 7). Rather, beneficence to them is doing what benefits them in religion and worldly life—even if whoever dislikes it dislikes it. But he should be gentle with them regarding what they dislike. In the Ṣaḥīḥ: the Prophet ﷺ said: **“Gentleness is not in anything except that it beautifies it, and it is not in anything except that it disfigures it.”** And he said: **“Allah is gentle and loves gentleness, and He gives for gentleness what He does not give for harshness.”**

ʿUmar ibn ʿAbd al-ʿAzīz (may Allah be pleased with him) used to say: by Allah, I want to bring them the bitter truth, but I fear they will shy away from it; so I wait until the sweetness of the world comes, and then I bring it out with it—so if they recoil from this, they settle for that.

And the Prophet ﷺ, if someone came asking a need, he did not turn him away—while he himself was in need—except by fulfilling it or by an easy word.

A relative once asked him to appoint him over the charities and to provide him from them, so he said: **“Indeed, charity is not lawful for Muḥammad nor for the family of Muḥammad.”** So he withheld it from them but compensated them from the fay’.

And ʿAlī, Zayd, and Jaʿfar (may Allah be pleased with them) litigated before him regarding the daughter of Ḥamzah. He did not award her to any one of them, but awarded her to her maternal aunt. Then he soothed the heart of each with a good word: he said to ʿAlī: **“You are from me and I am from you.”** And he said to Jaʿfar: **“You resemble me in appearance and character.”** And he said to Zayd: **“You are our brother and our ally.”**

Thus should the ruler be in his distribution and judgement: for people constantly ask the ruler for what is not suitable to grant—appointments, wealth, benefits, injustice, intercession in ḥudūd, and the like—so he should compensate them through another avenue if possible, or turn them back with an easy word, unless he needs to be stern. For refusing a petitioner hurts him, especially one who needs to be won over. Allah تعالى said: **"So as for the petitioner, do not repel him."** (al-Ḍuḥā: 10), and He said: **"And give the relative his right, and the poor, and the traveler… and if you turn away from them seeking mercy from your Lord which you expect, then speak to them a gentle word."** (al-Isrā': 26–28).

And if he judges against a person, he may be hurt; so if he pleases him with suitable words and actions, that is completion of policy—like what a physician gives the patient of something pleasant that makes the bitter medicine go down. Allah تعالى said to Mūsā and Hārūn when He sent them to Pharaoh: **"And speak to him with gentle speech; perhaps he will be reminded or fear."** (Ṭāhā: 44).

And the Prophet ﷺ said to Muʿādh and Abū Mūsā when he sent them to Yemen: **"Make things easy and do not make them hard; give glad tidings and do not repel; and cooperate and do not differ."** And when a Bedouin urinated in the mosque and his Companions rose toward him, he said: **"Do not interrupt him,"** then he ordered a bucket of water to be poured over it, and said: **"You have been sent to make things easy; you were not sent to make things hard."** Both ḥadīths are in the two Ṣaḥīḥs.

This is needed for a man in governing himself, his household, and his subjects. Souls do not accept the truth except with what they enlist from their needed portions. So those portions become worship of Allah and obedience to Him with a sound intention. Do you not see that eating, drinking, and clothing are obligatory upon a person—so much so that if he is forced to eat carrion, most scholars say he must eat, and if he does not eat until he dies, he enters the Fire—because the acts of worship cannot be performed except by this; and whatever is necessary for a duty to be fulfilled is itself a duty.

Thus a man's spending upon himself and his household is given precedence over others. In the Sunan, from Abū Hurayrah: the Messenger of Allah ﷺ said: **"Give charity."** A man said: O Messenger of Allah, I have a dinar. He said: **"Give it in charity upon yourself."** He said: I have another. He said: **"Give it in charity upon your wife."** He said: I have another. He said: **"Give it in charity upon your child."** He said: I have another. He said: **"Give it in charity upon your servant."** He said: I have another. He said: **"You are more knowledgeable about it."**

And in Ṣaḥīḥ Muslim: **"A dinar you spent in the path of Allah, and a dinar you spent to free a slave, and a dinar you gave in charity to a poor person, and a dinar you spent upon your family—the greatest of them in reward is the one you spent upon your family."**

And in Ṣaḥīḥ Muslim: **"O son of Ādam, if you spend the surplus it is better for you; and if you withhold it, it is worse for you. You are not blamed for sufficiency; begin with those you support…"** This is the meaning of Allah's saying: **"They ask you what they should spend. Say: the surplus."** (al-Baqarah: 219)—meaning the extra. For spending on oneself and

one's household is an individual obligation, while spending in expeditions and on the poor is originally either a collective obligation or recommended—though it may become individually obligatory if no one else fulfills it. Feeding the starving is obligatory; therefore it came in the ḥadīth: **"If the beggar were truthful, the one who refused him would not succeed."** Imam Aḥmad mentioned it and said: if his truthfulness is known, feeding him becomes obligatory.

Abū Ḥātim al-Bustī narrated in his Ṣaḥīḥ the long ḥadīth of Abū Dharr containing types of knowledge and wisdom, and in it: **"In the wisdom of the family of Dāwūd: it is a duty upon the intelligent that he have four ساعات: a time to privately converse with his Lord, a time to take account of himself, a time to be alone with companions who inform him of his faults and speak to him about his inner self, and a time to be alone with his pleasure in what is lawful and becoming—for in this time is aid upon those times…"** So he clarified that lawful, beautiful pleasures are necessary, for they help upon those matters.

Therefore the jurists said: uprightness (ʿadālah) is righteousness in religion and muru'ah. And they explained muru'ah as using what beautifies and adorns a person, and avoiding what soils and disgraces him.

Abū al-Dardā' used to say: I refresh my soul with something of permissible leisure so that I may be aided by it upon the truth.

Allah created desires and pleasures in their origin for the completion of the interests of creation: by them they seek what benefits them—just as He created anger so they repel what harms them. He prohibited from them what harms in being taken, and He censured whoever confines himself to them and becomes occupied with them from the interests of his religion, and whoever is excessive in them in type or measure. Allah تعالى said: **"And do not be extravagant; indeed He does not love the extravagant."** (al-Anʿām: 141), and He said: **"And those who, when they spend, do not squander and do not be stingy, but are between that—balanced."** (al-Furqān: 67), and He said: **"And do not waste extravagantly… indeed the wasteful are brothers of the devils…"** (al-Isrā': 26–27). Thus the Sharīʿah, according to the majority, restricts the squanderer who spends wealth in what does not benefit him.

He also censured those who forbid themselves what they need, saying: **"O you who believe, do not forbid the good things Allah has made lawful for you."** (al-Mā'idah: 87). And in the two Ṣaḥīḥs: when the Prophet ﷺ heard that some of his Companions said: I will fast and never break; and another said: I will stand (in prayer) and never sleep; and another said: I will not marry women; and another said: I will not eat meat—he said: **"But I fast and I break, and I stand and I sleep, and I marry women, and I eat meat; whoever turns away from my Sunnah is not of me."**

He forbade continuous fasting (wiṣāl), and he said: **"Whoever fasts the whole year has neither fasted nor broken the fast."** And he said: **"The best fasting is the fasting of Dāwūd: he would fast a day and break a day, and he would not flee when he met (the enemy)."**

He censured monasticism in leaving marriage and meat, as the ignorant say in praise of some: “He neither married nor slaughtered.” For praising such is of the monasticism the Christians innovated; it is not from Islam. Rather the Prophet ﷺ said: **“For every nation there is a monasticism, and the monasticism of my nation is jihād in the path of Allah.”**

He made the one who uses lawful, beautiful things as aid upon the truth to be among righteous deeds. Hence the Prophet ﷺ said in the authentic ḥadīth: **“In the intimacy of one of you there is charity.”** They said: does one of us fulfill his desire and he has a reward? He said: **“Do you not see that if he placed it in the unlawful he would bear sin? Likewise, when he places it in the lawful, he has reward.”**

Aḥmad narrated in his Musnad and Ibn Khuzaymah in his Ṣaḥīḥ from Ibn ʿUmar that the Prophet ﷺ said: **“Indeed Allah loves that His concessions be taken, just as He dislikes that His disobedience be committed.”**

And in the two Ṣaḥīḥs from Saʿd ibn Abī Waqqāṣ: the Prophet ﷺ said to him: **“You will not spend any spending seeking by it the Face of Allah except that you will be increased by it in rank and elevation—even the morsel you place in the mouth of your wife.”**

Texts on this are many: the believer, if he has an intention, is rewarded upon the generality of his actions; and the permissible acts become among his righteous deeds due to the soundness of his heart and intention. The hypocrite, due to the corruption of his heart and intention, is punished for what he displays of the forms of worship out of showing off. In the Ṣaḥīḥayn from the Prophet ﷺ: **“Indeed in the body there is a morsel of flesh: if it is sound, the whole body is sound; and if it is corrupt, the whole body is corrupt; indeed it is the heart.”**

Chapter

Just as punishments were legislated as a motive to perform obligations and to leave prohibitions, the Sharīʿah also legislated everything that helps upon that. Thus the path to goodness and obedience should be made easy, help should be given toward it, and encouragement toward it should be offered by every possible means—such as a man giving to his child, his family, or his subjects what inclines them to righteous deeds, of wealth, praise, or other than that.

For Allah sent Muḥammad ﷺ as a bringer of glad tidings and a warner. He used to win people over by benefit and wealth to Islam and its laws, and he would praise whoever did well therein, as he praised more than one of his Companions, and he would supplicate for whoever did what warrants supplication—just as Allah تعالى said to him: **“Take from their wealth charity by which you purify them and cause them increase, and invoke (blessings) upon them; indeed your invocation is reassurance for them.”** (al-Tawbah: 103). Therefore the jurists said: it is recommended for the ruler, when he takes ṣadaqah, to supplicate for the one who gave it—such

as saying: May Allah reward you for what you gave, bless you in what you kept, and make it a purification for you.

Likewise, mentioning the virtues of righteous deeds, their reward, and their benefit in this world and the next—for the Book and Sunnah are filled with that—and this is in reality more beneficial for the one who responds to it than mere fear of worldly punishment alone. Worldly punishment is only resorted to when the people wrong others by turning away from this way, as Allah تعالى said: **"And do not argue with the People of the Book except in a way that is best—except for those who commit ظلم among them…"** (al-ʿAnkabūt: 46).

And for the sake of desire for the interests of religion, racing with horses and camels was legislated, and competition with arrows, and taking prizes for that—because of what it contains of encouragement to prepare strength and to keep horses ready for jihād in the path of Allah تعالى. The Prophet ﷺ said, as the people of Sunan narrated: **"There is no prize except in a hoof, or a hoofed animal, or an arrow."** And the Prophet ﷺ used to conduct races between horses, as did his rightly-guided caliphs, and they would set prizes from the public treasury for the winners—likewise the giving to those whose hearts are to be reconciled.

It is narrated: **"A man would accept Islam at the beginning of the day seeking the world, and by the end of the day Islam would be more beloved to him than anything upon which the sun rises."**

Likewise, in evil and sin, the Sharīʿah legislated cutting off its material and blocking its means, and repelling what leads to it when there is no overriding benefit—such as what the Prophet ﷺ forbade, saying: **"No man should be alone with a woman, for indeed the third of them is Satan."** And he said: **"It is not lawful for a woman who believes in Allah and the Last Day to travel a journey of two days except with her husband or a maḥram."** So he forbade seclusion with a non-maḥram woman and traveling with her, because it is a means to evil.

And it is narrated from al-Shaʿbī that when the delegation of ʿAbd al-Qays came to the Prophet ﷺ, among them was a boy of striking beauty, so he seated him behind his back and said: **"Indeed the sin of Dāwūd was النظر."**

ʿUmar ibn al-Khaṭṭāb (may Allah be pleased with him) used to patrol Madīnah at night and heard a woman singing verses and saying:

> *Is there a way to wine so I might drink it?*
> *Or is there a way to Naṣr ibn Ḥajjāj?*

So he searched for him and found him a handsome young man. He shaved his head, but he only became more handsome, so he exiled him to al-Baṣrah so that he would not tempt women.

And it is narrated from him that he heard that a man used to sit with young boys, so he forbade people from sitting with him.

This is because the Prophet ﷺ expelled the effeminate man who used to enter upon his wives, and he commanded the expulsion of effeminate men from Madīnah; and he permitted them to enter on Fridays to ask people about what they buy with, and the jurists explicitly followed this Sunnah—such as al-Shāfiʿī and Aḥmad—and they said: it is established from the Prophet ﷺ the expulsion of the fornicator and the effeminate man. Along with that, he ﷺ cursed the effeminate men from among men and the masculinized women from among women, and the men who imitate women and the women who imitate men—these aḥādīth are in the Ṣaḥīḥ. So he did not suffice with the curse, rather he expelled him, because in him is harm to women and to men.

Thus if among boys there is one whose temptation is feared upon men or women, his guardian should prevent displaying him without need, or beautifying him—especially his tabarruj and his undressing in bathhouses—and bringing him to gatherings of amusement and songs; this is something that should be disciplined for.

Likewise, whoever's immorality becomes apparent is prevented from owning beautified, handsome boys, and they are separated—even if he did not confess nor did it become certain that he committed immorality—because what is intended for preventing evil, not punishing its doer, suffices in it with indication. Therefore the jurists agreed that if a witness testified about a man before the judge, and a type of فسق that invalidates testimony had become widespread about him, then it is not permissible to accept his testimony. Rather, the one who criticizes witnesses may criticize him before the judge by that widespread report even if he did not see it with his own eyes. For it is established that the Prophet ﷺ passed by a جنازة and they praised it with خير, and he said: **"It has become obligatory."** Then he passed by another جنازة and they praised it with شر, and he said: **"It has become obligatory."** They asked him about that, and he said: **"This جنازة you praised with خير, so Paradise became obligatory for it; and this one you praised with شر, so Fire became obligatory for it. You are Allah's witnesses on the earth."**

And though in his time there was a woman who committed immorality, he said: **"If I were to stone anyone without evidence, I would stone this one."** Thus he clarified that ḥudūd are not established except with evidence.

As for caution regarding a man's testimony, trustworthiness, and the like, then it is by الظن, as the Prophet ﷺ said: **"The testimony of a traitor—male or female—is not accepted, nor of one who harbors rancor against his brother, nor the dependent (cāniʿ) for the people of the house."** And it is narrated from him that he said: **"The testimony of one who is under suspicion in الولاء or kinship is not accepted."** Widespread report is sufficient for that and even what is less than widespread report—so much so that one infers about a man by his peers, as Ibn Masʿūd said: judge people by their companions. This is because the Prophet ﷺ said: **"A man is upon the religion of his close friend; so let one of you look at whom he befriends."** For the aim is to repel his evil—like taking precautions against an enemy. ʿUmar (may Allah be pleased with him) said: take precautions against people by سوء الظن, yet it is not permissible to punish a Muslim merely by سوء الظن.

Therefore the ruler and the scholar should be skilled concerning evil, its causes, and its signs—like skill concerning disbelief and immorality and the conditions of the enemy in their religion and worldly life—so as to be on guard against that evil. It is among the greatest interests to send scouts—who are the جاسوس—to the enemy, and to know the path of disbelief. It has been transmitted from some of the Salaf: Islam's bonds are only undone one by one when a person is raised in Islam who does not know jāhiliyyah. For the one who does not know diseases and their causes may be deceived by apparent health and does not guard against the causes of disease or the disease itself; but whoever knows its cause and sign is like a physician.

It is narrated from ʿUmar ibn al-Khaṭṭāb that he said: I have known, by the Lord of the Kaʿbah, when the Arabs will perish. A man said: when will they perish, O Commander of the Believers? He said: when their affairs are governed by one who did not experience the affair of jāhiliyyah and did not accompany the Messenger ﷺ.

Rulers and scholars are physicians of creation, as Salmān wrote to Abū al-Dardā' when he took up judging: I have been informed that you sat as a physician, so beware of killing a Muslim. And ʿUmar (may Allah be pleased with him) used to say: I am not cunning, nor does the cunning deceive me. They said: ʿUmar was too pious to be deceived, and too intelligent to be deceived.

The praiseworthy سلامة القلب is its safety from diseases—like doubts and vile traits: hypocrisy, malice, envy, stinginess, cowardice, the desire for zina, arrogance, and the like. But ignorance of realities is not praiseworthy in itself; for knowledge is a quality of perfection, and what benefits is either obligatory or recommended. Governing by opinion and experience is greater than governing by courage and strength, and more beneficial. By that Allah raises درجات, as He said in the story of Yūsuf عليه السلام: **"We raise in درجات whom We will—and above every possessor of knowledge is one more knowing."** (Yūsuf: 76). And He said about Dhū al-Qarnayn: **"And We gave him from everything a means."** (al-Kahf: 84)—they said: knowledge. And the Prophet ﷺ said: **"War is deception."** And from the wisdom of poetry by Abū al-Ṭayyib:

> Opinion comes before the bravery of the brave—
> It is first, and bravery is the second.
> When they gather in a person's soul once,
> He reaches every station of loftiness.

Yet the ruler must overlook punishing people for sins that harm only their doer, as Muʿāwiyah (may Allah be pleased with him) narrated from the Prophet ﷺ: **"If the ruler pursues suspicion among people, he nearly corrupts them."** Al-Ḥasan said: a word Muʿāwiyah heard from the Prophet ﷺ by which Allah benefited him.

And the Prophet ﷺ said: **"Whoever is tested with something of these filthinesses, let him conceal himself with Allah's concealment; for whoever shows us his صفحة, we will carry out upon him the Book of Allah."**

So he should not show people that he knows what they have concealed of their sins if he is not punishing them for it, for that changes their hearts and stirs turmoil with no benefit.

Chapter

“Rights of Allah” is a comprehensive name for everything in which there is a general benefit not restricted to a particular person, or repelling a general harm in matters connected to religion or worldly life: such as overseeing the mosques and their imams and muezzins; endowments; roads; estates; reviving the prophetic Sunnahs; eliminating misguided innovations; appointing those who benefit the people therein and otherwise from the best of people and the people of religion and knowledge and righteousness and piety from every category; avoiding people of sin and aggression and people of trickery and deceit and lying and flattery; and other public interests.

The Prophet ﷺ used to undertake most of that himself, and would deputize for what was beyond him, and would delegate certain matters to those present with him. And the Muslims used to cooperate upon that, and his caliphs were close to that. They would appoint in their regions a judge for the matters in which their ruling is implemented; and if something difficult came to the judge, he would consult the caliph—just as Zayd used to consult ʿUmar regarding مسائل of inheritance and divorce and other than that.

As for what came after the caliphs, customs diversified across eras and regions according to the degree of need and its lack, and according to the capability of the supreme ruler and his weakness, his undertaking of the matter and his turning away, and other causes. So some of these matters came to be handled by the military governor—the صاحب الشرطة.

The صاحب الشرطة was like the executor of the order of the greater ruler who is called “the deputy of the sultan.” Anas ibn Mālik said: Qays ibn Saʿd, with the Prophet ﷺ, was like the chief of police with an amīr.

Some of them were handled by the muḥtasib, who is entrusted with enjoining good and forbidding evil, and his office may enter into the office of the judge. And some of them were handled by the judge.

Whatever of these offices is carried out in obedience to Allah and His Messenger is a legitimate office; and whatever is carried out contrary to that—or whatever obligatory matter is neglected therein—is not legitimate. But because the judge is closer to knowledge and its people and is more acquainted with the Sharīʿah, many people came to think that there is no office in which the ruling of the Sharīʿah must occur or occurs except his. So they understood that the Sharʿ is whatever the judge rules. And perhaps they fled from this Sharʿ—either because they themselves depart from the truth, or due to deficiency found in some judges. But the matter is not so: rather Sharʿ is the name for what Allah sent His Messenger Muḥammad ﷺ with of the Book and wisdom, and His ruling is binding upon all creation.

So upon every ruler is to follow this Sharʿ. Many times the deputy, governor, and muḥtasib agree with it—just as many times some judges oppose it: either due to lack of knowledge, or a blameworthy motive, or imitation of a scholar, or other than that. The one who agrees with it from other than judges may agree with it due to the clarity of the truth that minds or religions or our Sharīʿah concur upon; or due to knowing it from the Book and Sunnah; or due to sound judgement; or due to imitating one who is correct in that; or it may happen by coincidence without following a sound path. Yet conformity with the Sharʿ in judicial rulings is more common than conformity with it in other offices.

It has been seen among governors those who are better than most judges; and among judges those who are worse than the sinful among governors. The generality and specificity of these offices is according to what is possible from the appointee. For the intended aim is the trust of religion in all matters, and that is not achieved except by unity and authority. So when an authority is set by which religion is established upon the legislated way, that is the objective of governance.

Groups of jurists have mentioned that an unrestricted judicial appointment entails several kinds of powers, and they differed in some matters. This is according to what the wording of the office and its customary meaning entails, for that varies with varying customary meanings. Therefore they said: it entails such and such—because the obligations of contracts are all derived from either wording or custom when the Sharʿ has not set a fixed boundary for them.

Everything that is from the category of agencies and offices that are acquired by stipulation, not by Sharʿ—such as a وصية, a judgeship, command of war, the governorship of regions, and the like—its generality and specificity are derived from the appointor's wording and custom, upon what is established by the Sharʿ. As for the guardianship of a father over his child, the generality of that is derived from the Sharʿ itself.

Chapter

As for rights and prescribed penalties that belong to a particular human being: among them are **blood (cases of killing and injury)**. Allah تعالى said:

> **"Say: Come, I will recite what your Lord has forbidden to you: that you not associate anything with Him, and to parents, good treatment, and do not kill your children out of poverty—We provide for you and for them; and do not approach indecencies, what is apparent of them and what is concealed; and do not kill the soul which Allah has forbidden except by right… And do not approach the property of the orphan except in the best way until he reaches maturity, and give full measure and weight in justice… And that this is My straight path, so follow it, and do not follow other ways lest they separate you from His way…"** (al-Anʿām: 151–153)

And He تعالى said:

> **“And it is not for a believer to kill a believer except by mistake…”** up to His saying: **“And whoever kills a believer intentionally—his recompense is Hell, abiding therein; Allah’s غضب is upon him, and He cursed him, and prepared for him a tremendous punishment.”** (al-Nisā’: 92–93)

And He تعالى said:

> **“Because of that We prescribed upon the Children of Israel that whoever kills a soul not in retaliation for a soul or for corruption in the land—it is as if he killed all mankind; and whoever saves one—it is as if he saved all mankind.”** (al-Mā’idah: 32)

And in the authentic ḥadīth from the Prophet ﷺ he said: **“The first matter to be judged between people on the Day of Resurrection is blood.”** And the scholars said: the greatest الكبائر after disbelief is killing the soul that Allah has forbidden without right.

Killing is of three kinds:

1. **Pure intentional murder (al-ʿamd al-maḥḍ)**: that he intends one whom he knows to be protected, using what usually kills—whether by a sharp thing like a sword and the like, or by a heavy thing like an anvil and the like, or by cutting off breath such as drowning and strangling, or other than that such as burning, throwing from a high place, holding the testicles until the soul departs, giving deadly poisons, and the like of such actions.
   If the killer did that while adult and sane, and the killed one is protected and legally equivalent to him, then **qiṣāṣ** becomes obligatory—meaning the heirs of the murdered are enabled against the killer: if they wish they kill; if they wish they take the blood money; if they wish they pardon. And do they have the right to pardon the blood money without the killer’s consent? There is a well-known dispute among the jurists. But they do not have the right to kill anyone other than the killer—neither from his tribe nor others. Allah تعالى said:

> **“And do not kill the soul which Allah has forbidden except by right. And whoever is killed مظلوما, We have given his ولي authority; so let him not exceed in killing; indeed he is supported.”** (al-Isrā’: 33)

They said in tafsīr: he does not kill other than the one who killed him.

And from Abū Shurayḥ al-Khuzāʿī: the Messenger of Allah ﷺ said: **“Whoever is struck with blood or injury—injury being الجراح—he has the choice of one of three: if he seeks a fourth, restrain his hands: to kill, or to pardon, or to take the blood money. Whoever does one of those then returns (to attack), then for him is the Fire of Hell, remaining therein forever.”** The people of Sunan narrated it; al-Tirmidhī said: ḥadīth ḥasan ṣaḥīḥ.

So whoever kills after pardoning or after taking blood money is more grave in crime than one who killed initially, until some scholars said: he must be killed as a ḥadd and his matter is not left to the heirs of the murdered. Allah تعالى said:

> **"O you who believe, qiṣāṣ has been prescribed upon you in قتل: the free for the free, the slave for the slave, and the female for the female. But whoever is pardoned by his brother anything, then (let there be) following with what is right and payment to him with good conduct. That is a lightening from your Lord and a mercy. So whoever transgresses after that—then for him is a painful punishment. And for you in qiṣāṣ is life, O people of understanding, that you may become mindful."** (al-Baqarah: 178–179)

The scholars said: the heirs of the murdered may boil with rage such that they prefer killing the killer and his supporters; and perhaps they are not satisfied with killing the killer alone, rather they kill many from the killer's party—like the chief of the tribe and the leader of the group. Thus the killer transgresses at the outset, and these transgress at the time of retaliation—just as the people of jāhiliyyah used to do, and as the jāhiliyyah people outside the Sharīʿah do in these times from bedouins and townspeople and others. They may deem killing the killer too light because he is noble and greater than the murdered, which then leads the heirs of the murdered to kill whoever they can from the killer's kin; then each side seeks alliances, and that produces immense فتَن and enmities. The cause of that is departing from the sunnah of justice—qiṣāṣ in killings. So Allah wrote upon us qiṣāṣ—which is equality and proportionality—and He informed that in it is life by preventing the blood of other than the killer among the heirs of both sides. Also: if the one intending to kill knows he will be killed, he refrains from killing.

It is narrated from ʿAlī ibn Abī Ṭālib and ʿAbd Allāh ibn ʿAmr from the Messenger of Allah ﷺ: **"The believers' blood is equal; they are one hand against others; the protection granted by the least of them is binding; a Muslim is not killed for a kāfir, nor one under covenant while in his covenant."** Aḥmad, Abū Dāwūd and others narrated it.

So the Messenger ﷺ ruled that the Muslims' blood is equal—meaning: they are equal and commensurate—and an Arab is not preferred over a non-Arab, nor Qurashī or Hāshimī over other Muslims, nor a freeborn over a freedman, nor a scholar or amīr over an illiterate or subordinate—just as he ruled that they are equal in wealth in matters like inheritance, for sons are equal in inheriting from their mother even if they differ in religion and worldly rank. This justice the Messenger ﷺ ruled for the ummah in lives and wealth is agreed upon among the Muslims—unlike the way of jāhiliyyah and the rulings of the Jews. For near the city of the Prophet ﷺ there were two Jewish clans: Qurayẓah and al-Naḍīr; and al-Naḍīr used to claim superiority over Qurayẓah in blood. So they litigated to the Prophet ﷺ about that and about the ḥadd of zinā, for they had altered it from stoning to blackening. They said: if he judges between you with that, then you have a proof; otherwise you have abandoned the Torah's ruling. So Allah تعالى revealed:

> **“O Messenger, let not those who hasten into disbelief grieve you…”** up to His saying: **“…and whoever does not judge by what Allah has revealed—then those are the wrongdoers.”** (al-Mā’idah: 41–45)

So He clarified that He made their lives equal and did not prefer one soul over another as they used to do—up to His saying: **“…and judge between them by what Allah has revealed and do not follow their desires…”** (al-Mā’idah: 48), and **“…Is it the judgment of jāhiliyyah they seek? And who is better than Allah in judgment for a people who are certain?”** (al-Mā’idah: 50). Thus Allah’s judgment concerning the blood of Muslims is that they are equal—contrary to the way of jāhiliyyah.

Most of the causes of whims and conflicts occurring among people in deserts and cities are ظلم and leaving justice: one party strikes the other in blood or wealth, or rises over it falsely and does not give it its due; and the other party does not limit itself to taking its right. What is obligatory in the Book of Allah is judging between people in blood and wealth and other matters with the justice Allah commanded, and erasing what many people were upon of the rule of jāhiliyyah. And if a reconciler reconciles between them, he reconciles with justice, as Allah تعالى said:

> **“And if two groups of believers fight, then reconcile between them… If one transgresses against the other, then fight the one that transgresses until it returns to the command of Allah… and reconcile between them with justice and be equitable…”** (al-Ḥujurāt: 9–10)

And one should seek pardon from the heirs of the murdered, for that is better for them, as Allah تعالى said: **“And the wounds—retaliation. But whoever gives in charity (pardon), then it is an expiation for him.”** (al-Mā’idah: 45). Anas said: no case involving qiṣāṣ was raised to the Messenger of Allah ﷺ except that he commanded pardon in it. Abū Dāwūd and others narrated it. And Muslim narrated in his Ṣaḥīḥ from Abū Hurayrah that the Messenger of Allah ﷺ said: **“Charity does not decrease wealth; Allah does not increase a servant by pardon except عزّ; and no one humbles himself for Allah except that Allah raises him.”**

This equality mentioned is in the free Muslim with the free Muslim. As for the dhimmī: the majority of scholars say he is not legally equivalent to the Muslim, just as the musta’man who comes from the lands of the disbelievers as a messenger or merchant and the like is not equivalent to him by agreement. Some say: rather he is equivalent to him. Likewise the dispute exists regarding killing a free person for a slave.

Equivalence in number is not considered by the majority of scholars: rather, if a number kill one person, they are all killed for him—as ʿUmar ibn al-Khaṭṭāb said: “If the people of Ṣanʿā’ conspired against him, I would execute them all for him.” And likewise ʿAlī ibn Abī Ṭālib said about those who testified against a man for theft so his hand was cut, then they recanted: “If I knew you did it intentionally, I would cut your hands.” Likewise, the male is killed for the female according to the majority, as the Prophet ﷺ killed the Jewish man for the woman as qiṣāṣ.

2. **Mistake resembling intent (al-khaṭa’ shibh al-ʿamd)**: the Prophet ﷺ said: **“Indeed in the killing of mistake that resembles intent—what was with a whip or a stick—(is) one hundred camels, of which forty are pregnant.”** So he named it شبه العمد because he intended aggression against him by an injury, but with what does not usually kill: he intended transgression but did not intend what kills. There is no qiṣāṣ in it according to the majority, as the Prophet ﷺ mentioned. Is the blood money upon the killer or upon his ʿāqilah? There is dispute among the jurists in the school of Aḥmad and others.

3. **Pure mistake and what resembles it (al-khaṭa’ al-maḥḍ)**: such as one shooting at game or a target and hitting a human without knowing or intending. There is no qiṣāṣ in it; rather there is blood money upon the ʿāqilah of the killer, and expiation in his own wealth.

And in these chapters there are many issues well-known in the books of the people of knowledge.

Chapter

Qiṣāṣ in wounds is also established by the Book, Sunnah, and consensus, with the condition of equality. So if he cuts his right hand from the joint, he has the right to cut his right hand likewise; and if he knocks out his tooth, he has the right to knock out his tooth; and if he wounds his head or face such that the bone is exposed, he has the right to wound him likewise. But if equality is not possible—such as breaking an internal bone, or a head wound less than an exposing wound—then qiṣāṣ is not legislated; rather the fixed blood money is due, or the assessed compensation (al-arsh), as came from the Prophet ﷺ and his Companions.

So every limb or benefit that a person has only one of—then in it is a full blood money: like the tongue, the nose, the male organ, speech, and عقل. And whatever a person has two of—then in both is the full blood money, and in one is half of it: like the eyes and sight, the ears and hearing, the hands, and the feet. Whatever a person has three of—then in one is a third of the blood money: like the two sides of the nose and the partition between them. Whatever a person has four of—then in one is a quarter of the blood money: like the four eyelids. Whatever is more than that—like the ten fingers—then in each finger is one-tenth of the blood money, and in each tooth is half of a tenth of the blood money.

If he wounds his head or face until the bone is exposed and becomes clear, then in it is half of a tenth of the blood money. If it is below that—such as a wound that merely splits the flesh—then the injured is evaluated as if he were a slave while sound, then evaluated while injured after the wound has healed; whatever his value decreased, he is given that amount from the blood money.

As for qiṣāṣ in striking by hand or stick or whip—such as slapping, punching, beating with a stick, and the like—then a group of scholars said: no qiṣāṣ in it, rather it is taʿzīr, because equality cannot be achieved. Another said: rather, qiṣāṣ applies, and this is what is transmitted from the rightly-guided caliphs and others among the Companions and Tābiʿīn: that qiṣāṣ is legislated in that. It is the text of Aḥmad and others among the jurists; the Sunnah of the Messenger ﷺ came with it; and it is the correct view.

Abū Firās said: ʿUmar ibn al-Khaṭṭāb (may Allah be pleased with him) gave a sermon and mentioned a report in which he said: “Indeed, by Allah, I did not send my workers to you to strike your bodies nor to take your wealth. I only sent them to you to teach you your religion and the Sunnah of your Prophet ﷺ. So whoever has something other than that done to him, let him raise it to me. By the One in whose hand is my soul, I will surely exact retaliation for him.” Then ʿAmr ibn al-ʿĀṣ sprang up and said: O Commander of the Believers, if a man from the Muslims is over subjects and he disciplines his subjects—will you retaliate against him? He said: Yes, by the One in whose hand is the soul of Muḥammad ﷺ, I will retaliate against him. How could I not retaliate against him when I saw the Messenger of Allah ﷺ retaliate against himself?! “Do not strike the Muslims and humiliate them, and do not withhold their rights and make them disbelieve.” Aḥmad and others narrated it.

The meaning of this is: if the one in authority strikes his subjects a harsh strike that is not permissible. As for the legislated ضرب, then there is no qiṣāṣ in it by consensus—and it is either obligatory, recommended, or permissible.

Chapter

Qiṣāṣ (retaliation) in **honor/reputation (al-aʿrāḍ)** is also legislated: that if a man curses another man or supplicates against him, then the other has the right to do likewise; and likewise if he insults him with an insult that contains no lying, he has the right to respond in kind. **Pardoning is better.** Allah تعالى said:

> **“And the recompense of an evil deed is an evil deed like it, but whoever pardons and reconciles—his reward is with Allah. Indeed, He does not love the wrongdoers. And whoever takes revenge after being wronged—those have no way (of blame) against them. The way is only against those who wrong people and transgress in the earth without right…”** (al-Shūrā: 40–42)

And the Prophet ﷺ said: **“The two who insult one another—what they said is upon the one who began it, so long as the oppressed does not transgress.”** This is called **intiqām / intiṣār** (taking one’s due / vindication).

The insult that contains no lie is like describing him with the vile traits that are actually in him, or calling him “dog” or “donkey” and the like as humiliation.

But if he **slanders** him, it is not permissible for him to slander back. If he declares him a kāfir or fāsiq without right, it is not permissible for him to declare him a kāfir or fāsiq without right. If he curses his father or his tribe or the people of his town and the like, it is not permissible to transgress against those others since they did not assist him in wronging him, for they did not wrong him. Allah تعالى said:

> **"O you who believe, be steadfast for Allah as witnesses in justice, and do not let the hatred of a people cause you to not be just. Be just; that is nearer to taqwā."** (al-Mā'idah: 8)

So how can it be permissible for a Muslim to transgress against a Muslim because he dislikes him—whether that dislike is justified or not?

The sum of this: everything that is **forbidden speech in his honor due to his personal right**, such that it is forbidden specifically because it harms him—then it is permissible to take retaliation with the like of it, to the extent of equality: like supplicating against him similarly to how he supplicated against him (cursing and the like), and like humiliating speech, and like exposing his faults to his face while he is present. It is not permissible to transgress by insulting more than he insulted, or more harshly than he insulted, as the Prophet ﷺ said: **"…upon the one who began it, so long as the oppressed does not transgress."** So it is known that the equal response has no sin, but if he transgresses then he has sin.

As for speech that is forbidden **for Allah's right**—meaning it is forbidden even if it contained no harm to him—such as lying against him by qadhf, takfīr, tafsīq, and the like—then it is not permissible to respond with the like of it. Rather, he is disciplined for it (taʿzīr), like what has no qiṣāṣ in bodily injuries. The scholars differed: is it permissible to settle that for money? Two views.

Analogous to this: if someone mutilates another in killing—such as burning him, cutting his hands and feet, and the like—does he receive the same as he did, or is there no qiṣāṣ except by the sword? Two famous views among the jurists. The closer of the two to the Book, Sunnah, and justice is: he is done to as he did, as long as the act is not itself prohibited—such as forcing wine into him, sodomizing him, and the like.

Chapter

If the ظلم in honor is of a type **in which there is no qiṣāṣ**, like qadhf and the like, then it is punished by the **ḥadd** in qadhf, and by **taʿzīr** in what is other than that.

As for the ḥadd of qadhf, it is established by the Book, Sunnah, and consensus. Allah تعالى said:

> **"And those who accuse chaste women and then do not bring four witnesses—flog them eighty lashes, and do not accept their testimony ever,**

> **and those are the defiantly disobedient—except those who repent thereafter and reform; for Allah is Forgiving, Merciful."** (al-Nūr: 4–5)

And this ḥadd—ḥadd of qadhf—its right belongs to the one who was accused, so it is not carried out except by his request by agreement of the jurists. If he pardons him, it falls according to the majority—Mālik, al-Shāfiʿī, and Aḥmad in the well-known view—because the dominant aspect in it is the human right, like qiṣāṣ and wealth. It is also said: it does not fall, giving precedence to Allah's right due to lack of strict equivalence like the other ḥudūd—this is the view of Abū Ḥanīfah and a narration from Aḥmad.

The ḥadd of qadhf is only obligatory if the one accused is **muḥṣan**—meaning: Muslim, free, and chaste. As for the one well-known for immorality, there is no ḥadd upon his accuser. Likewise the kāfir and the slave—though the accuser is disciplined.

This is regarding someone other than the husband, for he has no need to accuse even if he is truthful; Allah تعالى says:

> **"Indeed, those who love that indecency should spread among those who believe—for them is a painful punishment in this world and the Hereafter…"** (al-Nūr: 19)

As for the husband, it is permissible for him to accuse his wife if she commits zinā and does not become pregnant from zinā; but if she becomes pregnant from it and gives birth, then he must accuse her and deny the child, so that one who is not his does not attach to him, becoming a kin-relation to his relatives and a maḥram to his women. If he accuses her, then either she confesses zinā or denies; if she denies, then he may perform **liʿān** with her, as Allah mentioned in the Book and the Sunnah mentioned.

If the accuser is a slave, then upon him is half the ḥadd of the free person; likewise in the lashes of zinā and drinking, because Allah تعالى said regarding slave women: **"Then upon them is half of what is upon the muḥṣanāt of punishment."** (al-Nisā': 25). But if the obligation is killing or cutting the hand, it is not halved.

Chapter

Among rights also are **private parts / marital relations (al-abḍāʿ)**. The obligation is to judge between spouses by what Allah تعالى commanded: either **retaining with kindness** or **releasing with excellence**. And upon her is obedience to him and guarding the unseen regarding herself and his wealth, as Allah commanded. And it is obligatory upon each spouse to deliver the other's rights with a good soul and open chest.

As for the woman: she has a right over him in his **wealth**, and she has a right over him in his **body**.

1. **Her right in his wealth:** the ṣadāq and the maintenance in the recognized manner. If the ṣadāq is immediate—what is called the “advanced” (muqaddam)—then she deserves demanding it before consummation. As for the deferred to a specified time—what people call the “delayed” (mu’akhkhar)—the custom of many people in these times is to marry upon an advanced mahr and a delayed mahr, stipulating that before the contract at engagement often; then when they contract the marriage they name the total and leave it unrestricted, without explicitly stating “advanced” or “delayed.”

The condition made before contracts is like the condition made simultaneously according to most of the early scholars; that is the well-known view of Mālik and Aḥmad and others, and the Book and Sunnah indicate it.

If he married her upon advanced and delayed and did not specify a deadline, the jurists differed about the validity of this naming; most of the Salaf are on its validity, because what it corresponds to of benefit is not deferred to a specified term, unlike benefit in leasing. Then they differed: when does the deferred become due? Many of them—rather most—said: it becomes due when they separate by death or divorce and the like, and this is the madhhab of Aḥmad and others. According to this, most women of these times do not deserve demanding the deferred mahr from the husband until separation, and this is correct: for the man did not enter on the understanding that it was immediately due like the advanced, nor like what becomes due of oaths and wages; and the woman also did not enter on the understanding that she would collect it immediately like what is due from an immediate price or wage, rather she collects it immediately only when the man harms her for a corrupt purpose, or he proceeds to divorce her, or she withholds herself, or she goes where she wishes. Most harm occurring in marriage arises from the woman repeatedly demanding the deferred mahr. Whoever reflects on people’s conditions knows the corruption in that which no rational policy—let alone the Sharīʿah of Islam—can bear, until even ordinary people reject it by their natural disposition, especially if one adds to that accepting her claim that she did not receive maintenance while she remained in his house fifty years, having no known means except him, and the like of rulings in which some scholars slipped and from that slip came evils contrary to the Sharīʿah.

As for **maintenance**, it is “by the recognized manner” in that place and that time; and it is, according to the majority of jurists like Abū Ḥanīfah, Mālik, and Aḥmad, not fixed by Sharīʿah at a measured quantity nor a strict limit; rather it is known by custom, increasing and decreasing according to the husband’s condition. In considering the wife’s condition there is a disagreement in the madhhab of Aḥmad and others.

And must the woman be given ownership of that (what is called “food allowance”), like a fixed allotment, or is it enough to enable her to eat in the house as customs have run among people in the past and present? Two views; the second is closer to the Book and Sunnah, for it is not known in the era of the Salaf that a woman would “eat by fixed allotment.” This is the recognized manner that Allah commanded.

They also differed: is maintenance obligatory as a form of ṣilah (support) like maintenance of relatives, or as معاوضة (exchange) like ṣadāq and wages? Two views: the first is Abū Ḥanīfah and a narration from Aḥmad; the second is al-Shāfiʿī and Aḥmad in the well-known view. They built upon this whether it falls by passage of time if a judge did not set it, and whether she deserves annulment of the contract due to the husband's insolvency, versus not falling like wages and deserving annulment for inability, like inability to have intercourse, and likewise due to his refusal in the correct view.

2. **Her right in his body:** two things: companionship (ʿishrah) and enjoyment (mutʿah). So if he is incapable of intercourse because he is castrated, she deserves annulment by unanimous agreement; and likewise if he is impotent, except for an odd dissent.

If he performs īlā'—meaning he swears by Allah not to have intercourse with her absolutely or for a period exceeding four months—then she deserves separation by agreement, as the Qur'an indicates:

> **"For those who swear off their women is a waiting of four months; then if they return, Allah is Forgiving, Merciful. And if they resolve upon divorce, then Allah is Hearing, Knowing."** (al-Baqarah: 226–227)

Most say: after four months pass, either he returns (fay') or he divorces. Some say: divorce occurs by the mere passing of four months if he does not return.

And companionship—meaning equitable division—initially, and enjoyment—meaning intercourse—are obligatory upon him as the Book, Sunnah, and principles show; rather it is the purpose of marriage. Natural desire does not negate obligation, just as it does not negate the obligation of eating and drinking. The Prophet ﷺ said to ʿAbd Allāh ibn ʿAmr when he saw him persist in fasting: **"Your wife has a right over you."** And if intercourse were not her right, she would not own annulment of marriage for his inability or refusal.

Then it is said: the obligation is once every four months, because that is the waiting period in īlā'. And it is said: he must have intercourse with her "by the recognized manner" according to his ability and her need, just as maintenance is obligatory by the recognized manner, and just as what is due to him she must fulfill by the recognized manner according to her ability and his need. The judge estimates what she deserves of intercourse when disputing, like he estimates what he deserves, and like he estimates maintenance and mahr al-mithl. Both views exist in the madhhab of Aḥmad and others. The second is closer to the Book, Sunnah, principles, and the welfare of creation, and people's needs are not fulfilled nor harm removed except by it.

As for the man's right over her: Muslim narrated in his Ṣaḥīḥ that the Prophet ﷺ said in his sermon: **"Fear Allah regarding women, for they are captives (ʿawān) with you… You have the right that they do not allow onto your beds anyone you dislike; if they do, then strike them a ضرب غير مبرح. And for them upon you is their provision and clothing in the recognized manner."** And he ﷺ said: **"No woman whose husband calls her to his bed**

and she refuses him—except that the One in the heaven remains angry with her until morning." Al-Bukhārī and Muslim narrated it. And he ﷺ said: **"If I were to command anyone to prostrate to anyone, I would have commanded the woman to prostrate to her husband."**

Aḥmad and Ibn Mājah narrated from ʿAbd Allāh ibn Abī Awfā that he said: Muʿādh came from Shām and saw the Christians prostrating to their bishops and patriarchs; he thought the Messenger ﷺ was more deserving of being honored. When he came he said: O Messenger of Allah, I saw the Christians prostrating… He said: **"If I were to command anyone to prostrate to anyone, I would have commanded the woman to prostrate to her husband… even if he asked her for herself upon the back of a saddle, she would give it to him."**

This is agreed upon among the jurists: he may enjoy her whenever he wants as long as he does not harm her or distract her from an obligation; thus she must enable him. Likewise, she does not leave his house except with his permission or the permission of the Lawgiver, for she is ʿāniyah with him—ʿānī meaning captive.

He should not prevent her if she asks permission to go to prayer when there is no فساد. The Prophet ﷺ said: **"Do not prevent the female servants of Allah from the mosques of Allah—and their homes are better for them."** Likewise, he does not prevent her from visiting her sick relatives or consoling them.

Does he have a right over her body in service—like making the bed, sweeping, cooking, and the like? The jurists differed: it is said it is obligatory upon her; it is said it is not obligatory; and it is said: what is light of it that custom requires is obligatory, and this differs with people's customs.

Chapter

Muslims have disputed over issues within this, and likewise in **transactions (al-muʿāmalāt)**—sales, leases, agencies, partnerships, gifts, endowments, wills, and the like—transactions connected to contracts and taking possession. **For justice therein is the foundation of the worlds; the worldly life and the Hereafter do not stand upright except by it.**

Among justice in them is what is apparent, known by every person through his intellect, like: the obligation upon the buyer to deliver the price, and upon the seller to deliver the sold item to the buyer; the prohibition of cheating in measure and weight; the obligation of truthfulness and clarification; the prohibition of lying, treachery, and fraud; and that the recompense of a loan is repayment and gratitude.

And among them is what is hidden from intellects until the revealed laws came with it—and our Sharīʿah, the Sharīʿah of the people of Islam—for the majority of what the Book and Sunnah forbade of transactions returns to **realizing justice and forbidding oppression**, small and great: like consuming wealth wrongfully which the Qur'an forbade, and it mentioned its two

categories: **ribā** and **maysir**; and like the various forms of ribā and maysir that the Prophet ﷺ forbade, such as: the sale of gharar, ḥabl al-ḥabalah, selling birds in the air, fish in the water, selling to an unspecified term, selling the muṣarrāh, selling the mudallas, mulāmasah, munābadhah, muzābanah, muḥāqalah, najsh, selling fruit before its ripening becomes apparent, and other things—about forty types of sales.

And what he forbade of corrupt forms of partnerships, like mukhābarah by planting a particular patch of land. And among that is what the Muslims have disputed over due to its subtlety or ambiguity.

One may see that the contract and taking possession are just with no injustice in them, thus valid—while another thinks it contains injustice, thus invalid. Allah تعالى said:

> **"O you who believe, obey Allah and obey the Messenger and those in authority among you. If you disagree over anything, refer it to Allah and the Messenger, if you believe in Allah and the Last Day; that is better and best in outcome."** (al-Nisā': 59)

The principle in this is: that people are not forbidden from the transactions they need except what the Book and Sunnah indicate as forbidden—just as they are not legislated acts of worship by which they draw near to Allah except what the Book and Sunnah indicate as legislated—since the religion is what Allah legislated, and the forbidden is what Allah forbade; unlike those whom Allah censured, because they forbade, besides Allah, what He did not forbid, and they associated with Allah what He sent down no authority for, and they legislated in the religion what Allah did not permit. O Allah, grant us success to make lawful what You made lawful, and to make unlawful what You made unlawful, and to make the religion what You legislated.

And it is upon the ruler to go forward with forbidding forbidden transactions and punishing their doers, such as fraud. Muslim narrated in his Ṣaḥīḥ from Abū Hurayrah رضي الله عنه that the Messenger of Allah ﷺ passed by a heap of food, and he inserted his hand into it, and his fingers touched wetness. He said: **"What is this, O owner of the food?"** He said: The sky (rain) fell upon it, O Messenger of Allah. He said: **"Why did you not place it on top of the food so that people could see it? Whoever deceives is not of me."** And in another wording: **"Whoever deceives us is not of us."**

Fraud is a comprehensive term for anyone who shows the outward of the sold item contrary to its inward—like those who beautify the outward of foods, fruits, grains and the like, placing the inferior inside; and they do similarly with animals, like **taṣriyyah** of camels and sheep, which is to gather the milk in the udder for two or three days, then sell it, so the buyer thinks it milks every day like what is in the udder. The Prophet ﷺ said: **"Do not perform taṣriyyah on camels and sheep. Whoever buys one after that is between two options after milking it: if he is pleased with it he keeps it, and if he dislikes it he returns it along with a sāʿ of dates."** Al-Bukhārī and Muslim narrated it.

An example of that is reddening the face of a slave-girl, blackening her hair and curling it.

Likewise fraud in crafts: like one who manufactures for people for a wage, or one who manufactures for himself then sells to people—such as weavers, cooks, bakers, grillers, millers, auctioneers, and brokers—for fraud is abundant among these, and it is from treachery and lack of sincere counsel.

In the Ṣaḥīḥ it is narrated from Jarīr ibn ʿAbd Allāh that he said: I pledged allegiance to the Messenger of Allah ﷺ upon sincere counsel for every Muslim.

And in the Ṣaḥīḥayn from Ḥakīm ibn Ḥizām that the Messenger of Allah ﷺ said: **"The two parties to a sale have the option (to cancel) so long as they have not separated; if they speak the truth and make clear, their sale is blessed; and if they lie and conceal, the blessing of their sale is erased."**

Among the greatest frauds is fraud in the very category of currencies: in dirhams, dīnārs, and what is minted/jewelry made from them. So no one should be allowed to mint dirhams and dīnārs except by the order of the ruler out of fear of fraud; and it is not permissible for one with authority to break the Muslims' coinage to profit from it, or merely to inscribe a name. Abū Dāwūd narrated in his Sunan that the Prophet ﷺ forbade breaking the coinage of the Muslims that is acceptable among them, except due to necessity. Some of the Salaf said: breaking the Muslims' coinage is from فساد في الأرض (corruption on earth). It has been said this is among what Allah reproached the people of Shuʿayb for when He said: **"And do not deprive people of their things, and do not commit abuse in the earth, spreading corruption."** (Hūd: 85)

Yes, it is permissible to break coinage that is fraudulent, for if people are enabled to circulate it, the extent of the fraud is not discerned. Al-Ḥasan narrated from the Prophet ﷺ that he forbade mixing milk with water for sale—meaning, it is permissible to mix it for drinking, but as for sale it is not permissible even if the buyer knows it is mixed, because the amount of mixing is not discerned.

Among the greatest types of fraud is **alchemy (al-kīmiyā')**: making what resembles gold and silver; and likewise making what resembles jewels and perfumes like musk, saffron, ambergris, and the like. The meaning of kīmiyā' is resemblance. All of that is unlawful, for the manufactured item never becomes like the created. Its utmost is to resemble it outwardly and in some of its attributes.

Allah did not create anything and then give creation a way to create like His creating, nor did He grant them the ability to transfer one created kind into another kind. People only made glass because Allah did not create glass as He created gold and silver.

The rational people of mankind have agreed that the utmost of alchemy is excellent counterfeit that is not uncovered except after a long time. None cling to it except one of two men: one of little intellect who believes it true, or one of little religion who deems it lawful to circulate counterfeit. What is related about it in stories—if authentic—its utmost is excellent counterfeit that passes upon some of the discerning. So condemning this and punishing them is among the

greatest obligations. Much of the corruption of many people's conditions came from this. For that reason the jurists did not mention what is due in alchemy as is due in معدن and ركاز, because rikāz has a reality—buried ancient treasures called "maṭālib"—whereas alchemy has no reality.

Whoever claims about the Prophet ﷺ or about Mūsā عليه السلام that he practiced it or taught it has lied and fabricated. Jābir ibn Ḥayyān, to whom its writings are attributed, is unknown, full of confusion and contradiction.

As for knowing these matters without deceiving anyone, but rather to oppose the invalid and expose his deception and trickery—then that may be beneficial, for without knowing this, truth would not repel falsehood among many who do not know it.

Yes, Allah may break customary norms for whomever He wills of His servants by the miracles of the prophets and the karāmāt of the righteous; but that does not stand upon the causes employed by deceivers among the alchemists and sorcerers. Rather, Allah may turn eggplant and pebbles into gold and silver for whom He wills—yet the majority of these would still circulate counterfeit even if Allah turned it for them.

And among what is also binding upon the ruler: looking into those in charge of ḥisbah, and what enters them of manipulating the prices of the Muslims, and their compromise with sellers of flour and the like for what they gain of illicit wealth. The harm of this is general. So if the inspector is not one who fears Allah and whose trustworthiness is relied upon—then what is given to him of wealth shakes those like him. These are those who deprive people of their things and spread corruption, and they take as their great goal what they collect of filthy wealth, thus they spend greatly for it—yet it is little compared to much.

Their predecessors said to Shuʿayb: **"Does your prayer command you that we leave what our fathers worship, or that we not do with our wealth what we wish? Indeed you are the forbearing, the right-minded."** (Hūd: 87)

And although these matters are from public rights that must be upheld initially, like "the rights of Allah" (not the right of a particular person), yet often complaint in them comes from particular individuals; so they enter into judgment between people in wealth and in judiciary matters, and their ruling is like their likes. And Allah knows best.

Chapter

A ruler has no sufficiency without consultation, for Allah commanded His Prophet ﷺ with it, saying:

> **"So pardon them, and seek forgiveness for them, and consult them in the matter. Then when you resolve, rely upon Allah. Indeed Allah loves those who rely (upon Him)."** (Āl ʿImrān: 159)

It is narrated from Abū Hurayrah رضي الله عنه: no one was more frequent in consulting his companions than the Messenger of Allah ﷺ.

It has been said: Allah commanded His Prophet ﷺ with consultation to soften the hearts of his companions, that those after him follow his example, and to extract from them opinion in what revelation did not descend concerning matters of wars and military affairs and the like; thus others besides him are even more deserving of consultation.

Allah praised the believers for this, saying:

> **"And their affair is consultation among them, and from what We have provided them, they spend."** (al-Shūrā: 38)

When he consults them: if one of them clarifies for him what must be followed from the Book of Allah, the Sunnah of His Messenger, or the consensus of the Muslims, then he must follow that, and there is no obedience to anyone in opposition to that—even if he is great in religion or worldly rank. Allah تعالى said:

> **"O you who believe, obey Allah and obey the Messenger and those in authority among you. If you disagree over anything, refer it to Allah and the Messenger…"** (al-Nisā': 59)

If it is a matter the Muslims disputed, then he should extract from each their opinion and the reasoning for it; whichever opinion is closest to the Book of Allah and the Sunnah of His Messenger, he acts upon it, as Allah said: **"If you disagree over anything, refer it to Allah and the Messenger…"**

Those in authority are two categories: the commanders and the scholars; if they are righteous, the people are righteous. The greatest harm feared upon people is from these two. The Salaf used to warn from their trials: the trial of the innovator in his religion, and the trial of the immoral in his worldly power—one of desire whose desire has blinded him, and one of worldly attraction whom his world has deluded. They used to say: whoever is saved from the trial of the people of innovations and the trial of the one with authority is saved.

Thus each of them must seek, in what he says and does, obedience to Allah and His Messenger and following the Book of Allah and the Sunnah of His Messenger. Whenever in difficult new events it is possible to know what the Book and Sunnah indicate, that is obligatory. If that is not possible due to lack of time, or inability of the seeker, or equal evidence in his view, or the like—then he may imitate (taqlīd) one whose knowledge and religion he is pleased with; this is the strongest of the views.

It is also said: he has no taqlīd at all; and it is said: he has taqlīd in all circumstances. These three views exist in the madhhab of Aḥmad and others.

Likewise the conditions required in judges and rulers must be fulfilled according to ability; indeed, the rest of the conditions of acts of worship—prayer, jihād, and other than them—are all

obligatory with ability. But with inability, Allah does not burden a soul except with its capacity. For that reason Allah commanded the one praying to purify with water; if he lacks it or fears harm from using it due to extreme cold or wounds or the like, he performs tayammum with clean earth. And the Prophet ﷺ said to ʿImrān ibn Ḥuṣayn: **“Pray standing; if you cannot, then sitting; if you cannot, then on your side.”**

Allah has obligated prayer in its time in whatever manner is possible, as He said:

> **“Guard the prayers, and the middle prayer, and stand for Allah devoutly. But if you fear, then (pray) on foot or riding; and when you are safe, remember Allah as He taught you what you did not know.”** (al-Baqarah: 238–239)

So Allah obligated prayer upon the secure and the fearful, the healthy and the sick, the rich and the poor, the resident and the traveler, and He lightened it for the traveler, the fearful, the sick, and the poor who does not find purification or does not find means, as the Book and Sunnah brought. And He dropped what the servant is unable to do of its obligations: purification, facing the Kaʿbah, reciting al-Fātiḥah, completing bowing, prostration, and standing.

If a ship breaks with people, or highwaymen strip them of their clothes, they pray naked according to their states, and their imam stands in their middle so the others do not see his nakedness. If the qiblah is unclear they strive to infer it; if evidences disappear they pray as best they can, as has been narrated they did in the era of the Messenger ﷺ. Likewise if one is imprisoned in a tight place, or is in the state of facing the enemy, and the like. Thus are jihād, governance, and the rest of the affairs of religion: all of that is within Allah’s statement: **“So fear Allah as much as you are able.”** (al-Taghābun: 16), and within the Prophet’s ﷺ statement: **“When I command you with a matter, then do of it what you are able.”**

Just as Allah—when He forbade impure foods—said: **“But whoever is compelled without willful disobedience or transgression—there is no sin upon him.”** (al-Baqarah: 173), and He said: **“And He has not placed upon you in the religion any hardship.”** (al-Ḥajj: 78), and: **“Allah does not intend to place upon you any hardship.”** (al-Mā’idah: 6). So He did not obligate what cannot be done, and He did not forbid what one is forced into, as long as the necessity was not by the servant’s own disobedience.

Chapter

Governing people is among the greatest obligations of religion; rather religion and the world are not completed except by it. For the children of Adam do not have their welfare completed except by اجتماع (coming together), due to each of them needing the other in cooperation and mutual support: they cooperate to obtain benefit and support one another to repel harm, since one person alone cannot obtain all his benefits nor repel all his harms.

They must, when gathered, have a head, to the point that the Prophet ﷺ said: **“If three go out on a journey, then let them appoint one of them as their leader.”** Abū Dāwūd narrated it from the ḥadīth of Abū Saʿīd and Abū Hurayrah.

Imām Aḥmad narrated in al-Musnad from Ibn ʿUmar رضي الله عنهما that the Prophet ﷺ said: **“It is not lawful for three to be in an open land except that they appoint one over them.”**

So the Prophet ﷺ obligated appointing one leader even in a small, temporary gathering in travel, indicating by that the rest of kinds of gathering that are greater and more lasting. And because Allah obligated commanding good and forbidding evil, and that is not completed except with strength and authority; and likewise the rest of what He obligated—jihād, justice, establishing ḥajj, Jumuʿah, the two ʿĪds, supporting the oppressed, and establishing the ḥudūd—are not completed except with strength and authority. For that reason it is narrated: “The ruler is Allah’s shade on earth,” and it is said: “Sixty years under an oppressive ruler are better than one night without a ruler.” Experience demonstrates that: for the time and place in which authority is absent due to death or killing, and none replaces it; or in which a فتنة occurs between two factions; or its people depart from the rule of a ruler, like some of the people of deserts and villages—there occurs therein corruption in religion and worldly life, and there is lost therein of the worldly and religious interests what none knows except Allah.

For that reason the Salaf—like al-Fuḍayl ibn ʿIyāḍ, Aḥmad ibn Ḥanbal, Sahl ibn ʿAbd Allāh al-Tustarī, and others—magnified the blessing of Allah through the ruler, and they saw الدعاء for him and advising him among the greatest deeds by which they draw near to Allah, without coveting his wealth or leadership, without fearing him, and without helping him in sin and transgression.

The Messenger of Allah ﷺ said: **“Indeed Allah is pleased for you with three: that you worship Him and do not associate anything with Him; that you hold fast to the rope of Allah altogether and do not divide; and that you sincerely advise the one whom Allah has placed in authority over your affairs.”**

And he said: **“Three things do not allow the heart of a Muslim to be deceitful regarding them: sincerity of action for Allah, sincere advice to those in authority, and adhering to the الجماعة of the Muslims, for their supplication encompasses those behind them.”** These are two good ḥadīths.

And in the Ṣaḥīḥ he said: **“The religion is sincere counsel…”** They said: to whom, O Messenger of Allah? He said: **“To Allah, to His Book, to His Messenger, to the leaders of the Muslims, and their common folk.”**

Though most who enter into authority do not intend worship and drawing near, but what is in the souls of love of honor and elevation. Just as most who eat and drink and marry do not intend pure worship—though these are obligations—likewise many who fulfill outward trusts, like repaying people’s debts and returning funds of partnerships and companies, only intend by that

protecting their standing and prestige among them—though it is obligatory—so its likeness is much.

So the obligation is to take governance as religion and قربه, drawing near to Allah by righteous action within it; for drawing near to Allah therein by obeying Him and obeying His Messenger is among the best of قربات. The condition of most people corrupted therein because they sought leadership or money by it alone.

Kaʿb ibn Mālik narrated from the Prophet ﷺ that he said: **"No two hungry wolves sent into a flock of sheep corrupt it more than a man's greed for wealth and honor corrupts his religion."** Al-Tirmidhī said: ḥasan ṣaḥīḥ. So he informed that greed for wealth and leadership corrupts one's religion like, or more than, the corruption of two hungry wolves in a sheepfold.

Allah informed about the one who is given his book in his left that he says: **"Oh, I wish I had not been given my record… My wealth has not benefited me; my authority has perished from me."** (al-Ḥāqqah: 25–29)

And Allah تعالى said: **"Have they not traveled through the land and seen how was the end of those before them? They were stronger than them in power and in traces upon the earth, but Allah seized them for their sins…"** (Ghāfir: 21), and: **"That home of the Hereafter We assign to those who do not desire exaltedness in the earth nor فساد; and the outcome is for the muttaqīn."** (al-Qaṣaṣ: 83)

People are four categories:

1. A people who desire exaltedness over people and corruption in the earth—this is disobedience to Allah—these are the kings and corrupt chiefs, like Firʿawn and his party; these are the worst of creation. Allah تعالى said: **"Indeed Firʿawn exalted himself in the land…"** (al-Qaṣaṣ: 4)

Muslim narrated in his Ṣaḥīḥ from Ibn Masʿūd رضي الله عنه that the Messenger of Allah ﷺ said: **"He will not enter Paradise who has in his heart the weight of a ذرّة of arrogance, and he will not enter the Fire who has in his heart the weight of a ذرّة of faith."** A man said: O Messenger of Allah, I love that my clothing be nice and my sandals be nice—is that arrogance? He said: **"No. Arrogance is rejecting the truth and belittling people."** Rejecting the truth is denying it; belittling people is despising and looking down upon them. This is the state of one who desires exaltedness and corruption.

2. Those who desire corruption without exaltedness—like thieves and criminals among the lowly.

3. Those who desire exaltedness without corruption—like those who have some religion but want to elevate themselves through it above others—this is common among those attached to some kind of knowledge or some kind of piety.

4. The people of Paradise: those who do not desire exaltedness in the earth nor فساد—while they may indeed be higher than others, as Allah تعالى said: **“Do not weaken and do not grieve, and you will be الأعلى if you are believers.”** (Āl ʿImrān: 139), and: **“And you will be الأعلى, and Allah is with you…”** (Muḥammad: 35), and: **“And to Allah belongs honor, and to His Messenger, and to the believers.”** (al-Munāfiqūn: 8)

How many want exaltedness and it only increases them in lowness; and how many were made among the الأعلى while they do not desire exaltedness nor corruption. That is because desiring exaltedness over creation is oppression, for people are one genus; so a person’s desire to be the highest and his peer beneath him is ظلم to him. And along with being ظلم, people hate the one who is like that and oppose him. So the seeker of exaltedness corrupts his religion and his world by oppressing people and by their enmity, so he needs helpers to repel his enemies; yet the helpers in truth are enemies to him—they only aid him for what they gain of their desires. Hence whoever seeks leadership for itself is foolish and ignorant. What is sought from it is only what repels harm in religion and worldly life; and in reality that is repelling the false exaltedness of another from oneself, not desiring exaltedness over others—though it is named leadership.

As for the one who enters it religiously—like one entering jihād, giving his self and wealth—this is the one whose intention is correct. Yet it is among the most difficult matters in which to avert its فتنة in religion except for one whom Allah protects, and its harm in worldly life except for one whom Allah supports.

And it is inevitable—in intellect and religion—that some be above others, as has been explained, just as the body does not stand upright except with a head. Allah تعالى said: **“And He is the One who made you successors in the earth…”** (al-Anʿām: 165), and: **“We have apportioned among them their livelihood in the life of this world and raised some of them above others in درجات so that some may take others in service…”** (al-Zukhruf: 32). Therefore the Sharīʿah came to make السلطان and wealth in the سبيل of Allah a support for Allah’s religion.

So if the aim of authority and wealth is drawing near to Allah, establishing His religion, and spending in His path—that is the rectification of religion and worldly life. But if authority becomes separated from religion, or religion separated from authority, the people’s conditions in wealth become corrupted.

The distinction between those who obey Allah and those who disobey Allah is by intention and righteous action, as in the Ṣaḥīḥ: the Prophet ﷺ said: **“Indeed Allah does not look at your forms nor your wealth, but He looks at your hearts and your deeds.”**

When the desire for wealth and honor became dominant over many rulers, and they became far from the reality of faith in their governance, many people thought that leadership contradicts faith and perfection of religion. Then among them are those who prioritized religion and turned away from what religion cannot be completed without; and among them are those who saw their need for authority and took it while turning away from religion, believing it contradicts it. So

religion became, to him, in the place of mercy and humiliation, not in the place of exaltedness and honor.

Likewise, when many religious people were dominated by inability to complete the religion, and by anxiety over the trials that may strike them in upholding it, their path was seen as weak and humiliated by one who thinks his interest and the interest of others cannot be established by it.

These two corrupt paths: the path of one who ascribed himself to religion yet did not complete it with what it needs of authority, jihād, and wealth; and the path of one who pursued authority, wealth, and war without intending thereby the establishment of the religion—these are the paths of those who earned غضب and those who went astray: the first for the astray Christians, and the second for the Jews who earned غضب.

As for the straight path: the path of those Allah favored of prophets, the truthful, martyrs, and the righteous—it is the path of our Prophet Muḥammad ﷺ, his خلفاء and companions, and those who follow them. Allah تعالى said:

> **"And the foremost, the first of the Muhājirīn and the Anṣār and those who followed them with excellence—Allah is pleased with them and they are pleased with Him…"** (al-Tawbah: 100)

So it is obligatory upon the Muslim to strive in this according to his ability. Whoever is placed over a position and intends by it obedience to Allah, establishing what he can of His religion and the مصالح of the Muslims, and he establishes what he can of obligations and avoids what he can of prohibitions—he is not taken to account for what he is unable to do.

For appointing the righteous is better for the الأمة than appointing the wicked. And whoever is unable to establish the religion by authority and jihād, then he does what he can with his heart: supplicating for the الأمة, loving الخير and its people, and doing what he can of obligations—he is not burdened with what he cannot do.

For the establishment of the religion is by the guiding Book and the supporting iron, as Allah تعالى mentioned. So each person must strive to unite Qur'an and iron for Allah, seeking what is with Him, aided by Allah in that.

Then the world serves the religion, as Muʿādh ibn Jabal said: "O son of Ādam, you are in need of your portion of the world, but you are more in need of your portion of the Hereafter. If you begin with your portion of the Hereafter, your portion of the world passes by it and you gather it in order. But if you begin with your portion of the world, your portion of the Hereafter escapes you, and you are in danger regarding the world."

The proof of that is what al-Tirmidhī narrated from the Prophet ﷺ: **"Whoever wakes up with the Hereafter as his greatest concern, Allah gathers his affairs for him, places his richness in his heart, and the world comes to him humbled. And whoever wakes up with the world as his greatest concern, Allah scatters his affairs, places his poverty between his eyes, and nothing of the world comes to him except what was written for him."**

And the root of that is Allah's statement: **"And I did not create the jinn and mankind except that they worship Me…"** (al-Dhāriyāt: 56–58)

So we ask Allah العظيم to grant us and all our brothers and all Muslims success to what He loves for us and is pleased with of speech and action. There is no might nor power except by Him. And praise be to Allah, Lord of the worlds. And may Allah send blessings upon Muḥammad and upon his family and companions, and grant them peace abundantly.

It is written at the end of the original: "Copied from a copy most of which was copied in the handwriting of the author—may Allah benefit by him. Completion of copying was on Friday morning, the eighth of Rabīʿ al-Awwal, year one and eighty and seven hundred. And praise be to Allah alone."

And various conclusions in other copies were mentioned.

Conclusion (Y):
"Praise be to Allah alone. May Allah send blessings and peace upon our master Muhammad, and upon his family and companions, with complete peace. He is sufficient for us, and He is the best Disposer of affairs."

Conclusion (Ẓ):
"…except by Allah, the Most High, the Most Great. And praise be to Allah, Lord of the worlds. May Allah send blessings upon the master of the prophets and messengers … upon all creation: Muhammad, and upon his family, his companions, and his offspring, all of them."

(B):
"Praise be to Allah, Lord of the worlds, and may Allah send blessings upon Muhammad, the unlettered Prophet, and upon his family and companions, and grant them peace. May Allah forgive its writer and its reader … and all the Muslims."

(L):
"This is the end of what was made easy of *al-Siyāsah al-Sharʿiyyah*. Completed. And may Allah send abundant blessings and peace upon our master Muhammad, and upon his family and companions."